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Friday
March 7, 1986

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

Selected Subjects

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Selected Subjects

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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: March 20; 9 am and 1 pm. (identical sessions)

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

RESERVATIONS: Ruth Reedy, 202-523-5329 for reservations

DENVER, CO

WHEN: March 24; at 9 am.

WHERE: Room 239, Federal Building, 1961 Stout Street, Denver, CO.

RESERVATIONS: Elizabeth Stout Denver Federal Information Center, 303-236-7181, for reservations

DALLAS, TX

WHEN: April 23; at 1:30 pm.

WHERE: Room 7A23, Earl Cabell Federal Building, 1100 Commerce Street, Dallas, TX.

RESERVATIONS: local numbers:
Dallas 214-767-8585
Ft. Worth 817-334-3624
Austin 512-472-5494
Houston 713-229-2552
San Antonio 512-224-4471, for reservations

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MERIT SYSTEMS PROTECTION BOARD

5 CFR Part 1201

Practices and Procedures; Request for Comments

Correction

In FR Doc. 86-4187, beginning on page 6729, in the issue of Wednesday, February 26, 1986, make the following correction:

On page 6729, second column, under "Regulatory Flexibility Act", eighth line, before "have", insert "not".

BILLING CODE 1505-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 907

[Navel Orange Regulation 629]

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

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: Regulation 629 establishes the quantity of California-Arizona navel oranges that may be shipped to market during the period March 7–13, 1986. 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 629 (§ 907.929) is effective for the period March 7–13, 1986.

FOR FURTHER INFORMATION CONTACT: James B. Wendland, Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250, telephone: 202–447–5053.

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

This rule 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 March 4, 1986, at Yuma, 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 good. The regulation is needed to continue providing stability in the market and promote orderly marketing.

It is further found that it it 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

Agricultural Marketing Service, Marketing Agreements and Orders, California, Arizona, Oranges (Navel).

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 907.929 Navel Orange Regulation 629 is hereby added to read:

§ 907.929 Navel Orange Regulation 629.

The quantities of navel oranges grown in California and Arizona which may be handled during the period March 7, 1986 through March 13, 1986, are established as follows:

(a) District 1: 1,850,000 cartons;
(b) District 2: Unlimited cartons;
(c) District 3: Unlimited cartons;
(d) District 4: Unlimited cartons.

Dated: March 5, 1986.

Joseph A. Gribbin,
Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 86-5176 Filed 3-6-86; 9:21 am]

BILLING CODE 3410-02-M

Commodity Credit Corporation

7 CFR Part 1430

Implementation of Dairy Termination Program

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Final rule.

SUMMARY: This final rule implements the Dairy Termination Program authorized by section 201 of the Agricultural Act of 1949, as amended by the Food Security Act of 1985. Under the program the Commodity Credit Corporation (CCC) will enter into contracts with producers of milk in the forty-eight States of the continental United States who agree to sell for slaughter or export all dairy cattle in which they have an interest and who, for a period of five years, agree not to acquire any interest in dairy cattle or the production of milk or make available to any person any milk production capacity that becomes available because of the producer's compliance with the program.

EFFECTIVE DATE: February 10, 1986.

FOR FURTHER INFORMATION CONTACT: Jerry W. Newcomb, Director, Emergency Operations and Livestock Programs Division, Agricultural Stabilization and Conservation Service, United States Department of Agriculture, P.O. Box

2415, Washington, DC 20013, Telephone: (202) 447–5621.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed in accordance with procedures implementing Executive Order 12291 and Secretary's Memorandum 1512–1 and has been classified as "major" since the program will have an annual effect on the economy exceeding $100 million.

It has been determined that the Regulatory Flexibility Act is not applicable to this final rule since CCC is not required by 5 U.S.C. 553 or any other provision of the law to publish a notice of proposed rulemaking with respect to the subject matter of this rule. Section 201(d)(3) of the Agricultural Act of 1949 (the "1949 Act"), as amended by Title I of the Food Security Act of 1985 (Pub. L. 99–198) (the "1985 Act") provides that the Secretary of Agriculture shall establish and carry out a Dairy Termination Program for the 18-month period beginning April 1, 1986. Section 102 of the 1985 Act provides that the rulemaking requirements set forth in section 553 of title 5, United States Code, shall not apply with respect to the implementation by the Secretary of Agriculture of section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)) as amended by section 101 of the 1985 Act, including determinations made regarding the Dairy Termination Program.

An Environmental Evaluation with respect to the Dairy Termination Program has been completed. It has been determined that this action is not expected to have a significant impact on the quality of the human environment. In addition, it has been determined that this action will not adversely affect environmental factors such as wildlife habitat, water quality, air quality, and land use and appearance. Accordingly, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

A Final Regulatory Impact Analysis of this regulation has been prepared. Copies of the analysis are available to the public by contacting Jerry W. Newcomb.

The title and number of the federal assistance program to which this notice applies are: Title—Commodity Loans and Purchases; Number 10.051, as found in the Catalog of Federal Domestic Assistance.

This program/activity 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 Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

These regulations implement the Dairy Termination Program as authorized by section 201(d)(3) of the 1949 Act, as amended. Under the program, the Commodity Credit Corporation (CCC) will enter into contracts with milk producers who agree to to sell their dairy cattle for slaughter or export and terminate milk production for five years. Generally, a producer will be eligible to participate in the Dairy Termination Program and receive payments under the program only if all producers on all units with respect to which such producer or any related person was a producer on or after January 1, 1986, execute a contract to participate in the program. Producers must submit bids to enter into the contracts with CCC. If a bid is accepted, CCC will pay the producer an amount which is equal to the bid in dollars and cents per hundredweight multiplied by the milk base established for the contract. Only producers of milk in the forty-eight contiguous States of the continental United States are eligible to participate in the program. At least one of the participating producers who is a party to a contract must: (1) Have been continuously engaged in milk production from January 1, 1985, through the bid date, unless prevented from doing so because of dairy herd conditions beyond the producer's control; or (2) Be entitled to claim, in establishing a milk base under the contract (i.e., a contract base), the quantity of milk marketed for commercial use by another producer. In establishing a contract base, a producer may claim the quantity of milk marketed for commercial use by another producer only if: (1) The producer claiming such milk marketings commenced the production of milk on or after January 1, 1985; (2) The other producer was, or is, a family member of the producer claiming such milk marketings; and (3) The other producer's entire herd and facility were transferred to the producer claiming such marketings directly by reason of a gift from, or death of, the other producer.

The contract base is determined based upon the lesser of the quantity of milk marketed for commercial use by the producers entering into a contract with CCC during the twelve-month period ending June 30, 1985 or the twelve-month period ending December 31, 1985.

Producers may submit bids to enter into contracts with CCC for one or more of the following periods: (1) April 1, 1986 through August 31, 1986; (2) September 1, 1986 through February 28, 1987; and (3) March 1, 1987 through August 31, 1987. The period for which a bid is accepted by CCC, if any, will be considered to be the "contract disposal period". With two limited exceptions, the following dairy cattle must be slaughtered or exported by the end of the contract disposal period: (1) All dairy cattle which, on or after the date the bid was submitted, were located on dairy units with respect to which the contracting producers or related persons were producers on or after January 1, 1986, and (2) All dairy cattle in which, on or after the bid date, any contracting producers or related persons had an interest.

The two exceptions to the foregoing requirements are that: (1) Calves and unbred heifers may be slaughtered by September 30, 1986, with respect to contracts entered into under which producers agree to slaughter their dairy cattle during the first contract disposal period, and (2) CCC may permit cattle sold for export during the third contract disposal period to be exported not later than September 30, 1987. After the disposal of such dairy cattle, the contracting producers or related persons will not be permitted for a five-year period (the "nonproduction period") to acquire any interest in dairy cattle or milk, or to acquire or make available any milk production facility that becomes available for use as a result of the compliance by any person with the terms and conditions of the Dairy Termination Program. In addition, any new milk production facility erected on any unit on which a contracting producer or related person was a producer on or after January 1, 1986, cannot be used during the nonproduction period.

Any person who knowingly purchases dairy cattle which are sold as a result of the requirements of a contract under the Dairy Termination Program will be subject to a penalty of up to $5,000 for each head of such cattle which are not slaughtered or exported within the time limits prescribed by the terms and conditions of the program regulations. The liability of such buyers for the failure to slaughter or export such dairy cattle within the prescribed time periods will not affect the liability of the contracting producers to assure that such dairy cattle are slaughtered or exported.

The regulations provide that dairy cattle which are destroyed because of a disease or for any other reason will be considered to have been sold for slaughter. The regulations also provide that any dairy cattle which are exported to meet the requirements of the program cannot reenter the fifty States of the United States, its territories or possessions.

In addition, the regulations specify that some sales of dairy cattle which are required to be sold for slaughter or export will be permitted prior to the beginning of the contract disposal period. This will permit normal culling and thus allows for the maintenance, consistent with the overall nature of the program, or normal seasonal marketing patterns.

The regulations also specify branding requirements for dairy cattle which are sold for slaughter or export under the program and limit the time period which may expire between the date the dairy cattle are sold for slaughter or export and the actual date such cattle are slaughtered or exported. The regulations limit to one the number of intermediate buyers between the sale of the dairy cattle by the owner for slaughter or export and the actual slaughter or export of such dairy cattle. Except as otherwise permitted by CCC, contracting producers will be required to present a certification of the slaughter of the dairy cattle by the slaughtering party or, for dairy cattle which are exported, an official certification of export.

The regulations provide for the assessment of other penalties by CCC as a result of the failure of the contracting producers to comply with the terms and conditions of the Dairy Termination Program. Penalties may be assessed in those situations where a contracting producer or related person acquires an interest in milk or in dairy cattle contrary to the terms and conditions of the program. In addition, if a contracting producer makes a false statement concerning herd sizes or sales of dairy cattle such producer will be subject to a penalty in the amount of $5,000 for each head of dairy cattle which is represented by such false statement. A penalty in the amount of $1,000 may also be assessed for any other program violation.

The regulations provide that successful bidders may elect one of two options to receive cash payments under the Dairy Termination Program. Under the first option, producers may receive up to 80 percent of their payment in the first year following herd disposition with the remainder paid in four equal annual installments thereafter. This option will permit the producer to receive payments in five equal installments by choosing a 20 percent payment as the first payment. Under the second option, a producer may choose to receive, as an initial payment, up to 85 percent of the payment in the second year following the herd disposition with the remainder paid in three equal annual installments thereafter.

If there is a failure to comply with any of the terms and conditions of the program, all payments previously made under a program contract must be refunded to CCC and no further payments will be made. Contracting producers will be jointly and severally liable for all refunds and related charges (i.e., interest and late payment charges) which are determined to be due and owing to CCC under the program.

The maximum bids which will be accepted under the program may vary by region if such variations are determined to be necessary to avoid undue market effects. These regulations also provide that bids will be accepted which will result in greater numbers of dairy cattle being sold for slaughter under the program in the first and third contract disposal periods rather than in the second contract disposal period.

CCC will not permit contracts to be assigned under the Dairy Termination Program unless a contracting producer dies, in which case CCC may permit the estate of the contracting producer to assign the contract. CCC will permit the assignment of payments under the program in accordance with the provisions of 7 CFR Part 1409, except that such assignments may also be made to secure or pay preexisting indebtedness of the contracting producer.

This final rule also sets forth other terms and conditions of the Dairy Termination Program.

The information collection requirements of this subpart have been approved by the Office of Management and Budget (OMB) for purposes of the Paperwork Reduction Act and OMB number 0560–0124 has been assigned.

List of Subjects in 7 CFR Part 1430

Milk, Agriculture, Price support programs, Dairy products.

Final Rule

PART 1430—[AMENDED]

Accordingly, a new subpart is added to 7 CFR Part 1430 as follows:

Subpart—Dairy Termination Program

Sec.

Authority: Sec. 201 of the Agricultural Act of 1949, as amended, 63 Stat 1052, as amended (7 U.S.C. 1446(d)); Sections 4 and 5 of the Commodity Credit Corporation Charter Act, 62 Stat. 1070, as amended, 1072, as amended (15 U.S.C. 714 b and c).

Subpart—Dairy Termination Program

§ 1430.450 General statement.

This subpart implements the Dairy Termination Program which is authorized by section 201(d)(3) of the Agricultural Act of 1949, as amended by the Food Security Act of 1985 (Pub. L. 99–198) for the eighteen-month period beginning April 1, 1986. The purpose of the program is to achieve reductions in the quantity of milk marketed for commercial use. Under the program, the Commodity Credit Corporation will enter into contracts with producers under which producers will agree to sell their dairy cattle for slaughter or export and terminate milk production for a five-year period.

§ 1430.451 Administration.

(a) The program will be administered under the general supervision of the Administrator, Agricultural Stabilization and Conservation Service (ASCS), and shall be carried out in the field by Agricultural Stabilization and Conservation State and county committees (herein called "State and county committees") and the ASCS Kansas City Management Field Office (KCMO).

(b) State and county committees, the KCMO, and representatives and employees thereof do not have authority to modify or waive any of the provisions of the regulations in this subpart, as amended or supplemented.

(c) The State committee shall take any action required by these regulations which has not been taken by the county committee. The State committee shall also:

(1) Correct, or require a county committee to correct, any action taken by such county committee which is not in accordance with this subpart, or

(2) Require a county committee to withhold taking any action which is not in accordance with this subpart.

(d) No delegation herein to a State or county committee shall preclude the Administrator, ASCS, or a designee, from determining any question arising under the program or from reversing or modifying any determination made by a State or county committee.

§ 1430.452 Definitions.

In determining the meanings of the provisions of this subpart, unless the context indicates otherwise, words imparting the singular include and apply to several persons or things, words imparting the plural include the singular, words imparting the masculine gender include the feminine as well, and words used in the present tense include the past and future as well as the present. The following terms shall have the following meanings and all other words and phrases shall have the meanings assigned to them in the regulations governing reconstitution of farms in Part 719 of this chapter.

(a) *Acceptable evidence of milk marketed for commercial use* means documentation of the quantity of milk marketed for commercial use which is considered to be sufficient by CCC and verified through compliance checks and includes such items as:

(1) Monthly sales receipts or check stubs; or

(2) Computer printouts or handwritten reports prepared by a third party showing milk marketings certified to be complete and accurate by the preparer, and verified by actual marketing evidence.

(b) *Actively engaged in the production of milk* means engaged in the production and marketing of milk for commercial use in the United States.

(c) *ASCS* means the Agricultural Stabilization and Conservation Service, United States Department of Agriculture.

(d) *Bid* means a bid(s) submitted to obtain a contract, such bids being the amount of the nearest penny per hundredweight which when multiplied by the contract base shall constitute the maximum payment allowable under the contract.

(e) *Bid date* means the date on which the participating producers in the contracting entity submit a signed bid.

(f) *Brand or Branded* means the marking of dairy cattle in accordance with instructions from the county ASCS office.

(g) *Calf* means any female dairy bovine which weighs less than 500 pounds and is not pregnant.

(h) *CCC* means the Commodity Credit Corporation.

(i) *Contract* means the DTP Contract when executed by CCC after acceptance of a bid by CCC.

(j) *Contract base* means the milk base for the contracting entity as determined in accordance with § 1430.455 of this subpart.

(k) *Contract disposal period* means the dairy herd disposal period applicable to the contract.

(l) *Contract units* means units which are either (1) used to establish a contract base or (2) units to which the exemption in § 1430.453(c) of this subpart is applicable.

(m) *Contracting entity* means the producer or producers who submit a bid and are party to the same contract.

(n) *County ASCS office* means the office of the county committee in the county in which all or a portion of one or more of the units from which marketings used to establish the contract base are located and which the contracting entity elects to be the location through which all business related to the bid and contract shall be conducted.

(o) *County committee* means an ASCS county committee as established in accordance with section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

(p) *Cow* means any female dairy bovine that has had one or more calves.

(q) *Dairy cattle* means cows, heifers, and calves.

(r) *Dairy Termination Program (DTP)* means the program for purchasing by contract the termination of milk production by producers which is required by section 201(d)(3) of the Agricultural Act of 1949, as amended by the Food Secruity Act of 1985 (Pub. L. 99–198).

(s) *Dairy herd disposal* means the disposal of all dairy cattle in accordance with the provisions of this subpart and the contract.

(t) *Disposal period* means a period within which a producer must sell for slaughter or export all dairy cattle required to be sold by the contract.

(u) *Heifer* means any female dairy bovine which: (1) Weights 500 pounds or more or is pregnant; and (2) Has not yet had a calf.

(v) *Herd disposal completion date* means, except as otherwise specified in this subpart, the date on which the last of the participating producers in the contracting entity certifies to the satisfaction of CCC that the dairy cattle disposal which is required to be made by the end of the contract disposal period has been completed.

(w) *Interest in dairy cattle* means any ownership or financial interest of any kind, whether present, future, or conditional, in dairy cattle, including any interest as a lessee or lessor.

(x) *Interest in the production of milk* means sharing in the risk of production of or the proceeds from the sale of milk.

(y) *Marketed for commercial use* means milk which has been produced in the United States and also disposed of in the United States in raw or processed form by voluntary or involuntary sale, barter or exchange, or by gift.

(z) *Marketed milk* means milk produced in the United States and marketed for commercial use.

(aa) *Milk* means milk of dairy cows.

(bb) *Milk production facility* means all buildings used for the production or handling of milk.

(cc) *Nonproduction period* means the five-year period that begins on the day after the earlier of: (1) The last day of the contract disposal period; or (2) the herd disposal completion date.

(dd) *Participating producer* means any of the actual producers who is a party to a DTP contract.

(ee) *Person* means an individual, partnership, association, corporation, trust, estate, or other business enterprise or other legal entity or a State, a political subdivision of a State, or any agency thereof.

(ff) *Principal producer* means the producer who is designated on the contract as the person to receive communications from the county ASCS office concerning the contract.

(gg) *Producer* means any person who: (1) Is involved in, contributes to, or has any interest, including any ownership or financial interest, in any unit that is used for the production of milk, and (2) shares in the risk and/or proceeds of the production of milk from such unit.

(hh) *Program regulations* means the regulations contained in this subpart.

(ii) *Related person* means with respect to any participating producer any person identified as a related person under the provisions of § 1430.454 of this subpart.

(jj) *Secretary* means the Secretary of Agriculture of the United States.

(kk) *Unit* means the dairy cattle, milk production facilities, and land used together to produce milk.

(ll) *United States* means, except as otherwise specified in this subpart, the forty-eight contiguous States in the continental United States.

§ 1430.453 Eligibility requirements.

(a) Except as provided in paragraph (c), in order for any producer to be eligible for payments under a contract under this subpart, all producers on all

units with respect to which any participating producer or related person was a producer on January 1, 1986, must sign and be party to the same contract.

(b) Only those persons who were producers of milk in the United States as of the bid date are eligible for payments under the contract except with respect to an assignment of payments made pursuant to the terms and conditions of the contract and this subpart.

(c) The provisions of paragraph (a) shall not be applicable to any unit from which, at the election of the participating producers, no quantity of milk marketed for commercial use will be used to establish a contract base. However, with respect to any such unit:

(1) All dairy cattle on such unit on or after the bid date must be slaughtered or exported by the end of the contract disposal period;

(2) No milk production facility on any such unit may be used to produce milk during the five-year nonproduction period for the contract; and

(3) No new milk production facility may be utilized on such unit during the nonproduction period either for purposes of producing milk or to maintain dairy cattle.

(d) The contracting entity must submit a bid by the final date for submitting bids established by CCC for the program.

(e) Each participating producer must file, by the bid date, the herd report required by paragraph (h).

(f) A contract base must have been established for the contract by the bid date.

(g) All participating producers must sign the contract.

(h) Each participating producer must, by the bid date, file with the county ASCS office a report showing for all units with respect to which such producer or related person had an interest in dairy cattle or in the production of milk on January 1, 1985, January 1, 1986, or the bid date:

(1) The number of cows on each such unit as of each of those dates;

(2) The number of heifers on each such unit as each of those dates; and

(3) The number of calves on each of those units as of each of those dates.

(i) The herd report required by paragraph (h) shall also show:

(1) Any transfer on or after January 1, 1986, of any dairy cattle onto any unit, from which marketings of milk for commercial use will be used to establish a contract base;

(2) Any transfer on or after January 1, 1986, of any dairy cattle from any unit with respect to which any participating producer or related person had an interest in dairy cattle or in the production of milk on or after January 1, 1986; and

(3) Any dairy cattle with respect to which any participating producer or related person had an interest on or after January 1, 1986, if the participating producer or related person no longer has an interest in such dairy cattle.

(4) The disposition or status of all dairy cattle to which the provisions of paragraphs (i) (2) and (3) are applicable.

(j) At least one of the participating producers in the contracting entity must either: (1) have been actively engaged in the production of milk continuously from January 1, 1985 through the bid date unless CCC determines that such continuous production of milk was not possible due to dairy herd conditions beyond the producer's control; or (2) be entitled to claim the marketings of another producer toward the establishment of a contract base in accordance with the provisions of § 1430.455 of this subpart.

§ 1430.454 Related persons.

(a) For purposes of this subpart the following persons are considered to be "related persons" with respect to any participating producer and, in addition, the actions of such persons will be considered for compliance purposes and other purposes specified in this subpart to be the actions of the participating producer: (1) The spouse and minor child of such producer and/or guardian of such child; (2) Any corporation in which the producer is a stockholder, shareholder, or owner (except publicly-held corporations in which the producer has a less than one percent interest in such corporation); (3) Any partnership, joint venture, or other enterprise in which the producer has an ownership interest or financial interest; and (4) Any trust in which the participating producer or any person listed in paragraphs (a) (1) through (3) is a beneficiary or has a financial interest.

(b) If the participating producer is a corporation, partnership, or other joint venture, then, for purposes of applying paragraph (a), the participating producer shall be considered to be such corporation, partnership, or other joint venture, and each individual owner, participant, or stockholder therein, except for persons with less than a one percent share in a corporation.

§ 1430.455 Base establishment.

(a) A preliminary milk base shall be established for the contract based upon the quantity of milk marketed for commercial use by the participating producers from all units with respect to which any such person was a producer on the bid date. In establishing a preliminary milk base, a producer may only claim that quantity of milk marketed for commercial use with respect to which the producer shared in the risk of production and only to the extent that the producer was entitled to an individual share of the proceeds of such marketings. Notwithstanding the first sentence of this section, no quantity of milk marketed for commercial use from any unit to which the exemption in § 1430.453(c) is applicable shall be used to establish the preliminary milk base. The preliminary milk base for the contract shall be the lesser of the total quantities of milk marketed for commercial use which may be used to establish such base for the participating producers in the contracting entity for the following two periods: (1) the 12-month period ending June 30, 1985; and (2) the 12-month period ending December 31, 1985.

(b) Each producer must present acceptable evidence of the quantity of milk marketed for commercial use for the relevant periods to the county ASCS office.

(c) Except for dairy cattle slaughtered or exported by the bid date, the preliminary milk base shall be reduced by 20,000 pounds for:

(1) Each head of dairy cattle transferred on or after January 1, 1986, but before the bid date, from those units with respect to which any participating producer or related person was a producer on or after January 1, 1986; and,

(2) To the extent to which paragraph (c)(1) is not applicable, each head of dairy cattle in which any participating producer or related person had an interest on or after January 1, 1986, if, as of the bid date, no interest in such dairy cattle is retained by any participating producer in the contracting entity or related person with respect to any such producer. If the maximum interest which any such participating producer or related person had in such dairy cattle on or after January 1, 1986, was less than 100 percent, the 20,000 pound reduction provided for in this subparagraph shall be adjusted accordingly.

(d)(1) The preliminary milk base shall be adjusted in accordance with the provisions of paragraph (d)(2) if the number of cows as of the bid date on those units from which quantities of milk marketed for commercial use have been used to establish such base, less the number of all cows transferred onto such units on or after January 1, 1986, is less than 90 percent of: (i) the number of cows on those units on either January 1, 1985, or January 1, 1986; and (ii) the number of cows estimated needed to

produce the preliminary milk base as adjusted under paragraph (c).

(2) If an adjustment is required under the provision of paragraph (d)(1), the preliminary milk base shall be further reduced to the extent necessary so that such base does not exceed the product of multiplying: (i) the number of cows as of the bid date on the units from which the quantities of milk marketed for commercial use have been used to establish such base, less the number of cows transferred onto such units on or after January 1, 1986, by (ii) the higher of: (A) 13,000 pounds or (B) the average annual milk production for the cows remaining on such units.

(3) For purposes of paragraph (d)(1), the estimated number of dairy cows needed to produce the preliminary milk base as adjusted in accordance with paragraph (c) shall be computed by dividing such adjusted base by 13,000 pounds.

(e)(1) Notwithstanding any other provision of this subpart, a participating producer may, in establishing a contract base, claim the quantity of milk marketed for commercial use by another producer if: (i) the participating producer commenced the marketing of milk after December 31, 1984; (ii) the other producer was or is a member of the family of the participating producer; and, (iii) the other producer's entire herd and facility were transferred to the participating producer directly by reason of the death of, or gift from, the other producer.

The participating producer may only claim that quantity of milk marketed for commercial use which such other producer would have been entitled to claim in establishing a milk base if such other producer had been a producer on the unit as of the bid date.

(2) For purposes of this paragraph, a member of the family of the participating producer means: (i) the parent, grandparent, or spouse of parent or grandparent, or legal guardian of such producer; (ii) the spouse of such producer; or (iii) the son, daughter, or grandson, or granddaughter of such producer, or the spouse of any such persons.

(f) The preliminary milk base as adjusted in accordance with the provisions of this section shall constitute the contract base. The contract base shall be determined by the county ASCS office. The adjustments provided for in this section shall be made to the extent practicable and CCC may make such additional adjustments in the contract base as are determined to be necessary in order to ensure that CCC receives the maximum value for the payments made by CCC under the program authorized by this subpart.

§ 1430.456 Bid submission.

(a) The bid shall be stated in a dollar amount per hundredweight to the nearest penny which, when multiplied by the contract base, shall equal the total payment which may be made by CCC under the contract if the bid is accepted. A producer's bid may not be withdrawn after the last date for bid submission established by CCC. CCC is not obligated to accept any bid and may give preference by contract disposal periods to submitted bids. The maximum bid per hundredweight which is accepted may vary by region if such variances are determined to be needed to avoid undue disruption of dairy markets. The bid shall be submitted by signing the contract which shall set forth the bid or bids of the producer(s). If a bid is accepted by CCC the requirements of the contract and this subpart shall be applicable even if, by reason of noncompliance with the eligibility requirements of § 1430.453 of this subpart, none of the participating producers are entitled to payment under the contract.

(b) A bid may be submitted for one or more of the three following disposal periods: (1) April 1, 1986 through August 31, 1986; (2) September 1, 1986 through February 28, 1987; (3) March 1, 1987 through August 31, 1987.

(c) When a bid is accepted by CCC, a representative of CCC will sign the contract and a copy of the executed contract will be supplied to each participating producer. The period for which the bid is accepted shall be the contract disposal period.

§ 1430.457 Dairy herd disposal and nonproduction period requirements.

(a) All dairy cattle, which on or after the bid date were located on any unit with respect to which any participating producer or related person was a producer on or after January 1, 1986, shall be sold for slaughter or export by the end of the contract disposal period in accordance with the provisions of § 1430.458 of this subpart. In addition, all dairy cattle in which any such producer or related person had an interest on or after the bid date shall be so sold by the end of the contract disposal period.

(b) During the five year nonproduction period as calculated under the provisions of § 1430.459 of this subpart, no participating producer or related person may have, retain, or acquire any interest in dairy cattle or in the production of milk.

(c) No participating producer or related person shall, during the nonproduction period, acquire or make available to any person any production facility that becomes available for use as a result of the compliance by any person with any DTP contract. This restriction shall be considered to include, but not be limited to, any milk production facility used by any participating producer or related person on or after January 1, 1986, to produce milk. The use by any person of such a facility during the nonproduction period for a contract shall be a violation of the terms and conditions of the contract regardless of whether the participating producer or related person owns, or has owned, the milk production facility.

(d) No milk production facility on any unit with respect to which any participating producer or related person was a producer on or after January 1, 1986, may be used by any person to produce milk or to maintain dairy cattle during the nonproduction period and no new milk production facility may be brought into use on such unit during the nonproduction period.

(e) Unless CCC shall otherwise agree in writing, if any participating producer or related person involuntarily acquires an interest in dairy cattle or in the production of milk as a result of the death of another person or otherwise, the total amount of payments which are due under the contract shall be reduced by the amount of any gross proceeds realized by any such producer or related person from the use or sale of such interest.

§ 1430.458 Sales for slaughter or export.

(a) All dairy cattle which are required to be sold for slaughter or export under the provisions of this subpart shall be branded if such dairy cattle have not been sold by the date that the principal producer receives notice that the contract has been accepted by CCC.

(b) There may be no more than one intermediate purchase of any dairy cattle which are required to be sold for slaughter or export under the provisions of this subpart between the date of sale for that purpose and the date of the actual slaughter or export of such dairy cattle.

(c) The participating producers in the contracting entity shall be responsible for ensuring that any purchaser of dairy cattle which are sold to meet the requirements of the contract has, with respect to each such sale, signed a notice on a CCC-approved form listing the type, weight, price and final slaughter or export date for the dairy cattle. Such notice will not relieve the participating producers of their liability for any failure of such cattle to be

slaughtered or exported by the required date. Any such failure shall be a violation of terms and conditions of the contract. Each notice signed by a purchaser of dairy cattle as prescribed in this subsection shall be submitted to the county ASCS office by the tenth day of the month following the month in which the sale to meet the requirements of the contract occurred.

(d) Not more than 50 percent of the dairy cows on any unit to which the requirements for slaughter and export in this subpart are applicable may be slaughtered before the beginning of the contract disposal period.

(e)(1) Except as provided in paragraph (e)(2), all dairy cattle which are to be sold for slaughter or export in accordance with the terms and conditions of the contract must be slaughtered or exported by the end of the contract disposal period.

(2) Notwithstanding the provisions of paragraph (e)(1), if the contract disposal period ends on August 31, 1986, calves and unbred (nonpregnant) heifers may be slaughtered not later than September 30, 1986. In addition, with respect to contracts entered into for the third disposal period, CCC may permit dairy cattle sold for export to be exported not later than September 30, 1987.

(f) Subject to the final date for slaughter or exports as prescribed by the provisions of paragraph (e), the sale of dairy cattle for slaughter or export shall be subject to the following additional time limitations:

(1) All cows and bred (pregnant) heifers sold for slaughter must be slaughtered within 15 days from the date such cows and bred heifers were sold for that purpose;

(2) Calves and unbred heifers sold for slaughter must be slaughtered within six months from the date such calves and unbred heifers were sold for that purpose;

(3) Dairy cattle sold for export must be exported within 45 days from the date such cattle have been sold for that purpose.

(g) Dairy cattle sold for export shall be considered to have been exported only if such cattle are exported outside the fifty States of the United States, its territories and possessions and do not reenter the fifty States of the United States, its territories and possessions at any time after such export.

(h) In order to establish the export or slaughter of any head of dairy cattle, the contracting entity must present to the county ASCS office with respect to such cattle:

(1) All sales receipts relating to such sale including any receipt generated by a sale by an intermediate buyer;

(2) All notices required by this subpart to be signed by the purchasers of such cattle; and

(3)(i) For any dairy cattle sold for slaughter, a certificate of slaughter by the slaughtering party unless other acceptable evidence of slaughter has been presented;

(ii) For any dairy cattle exported to a country other than Canada or Mexico, a certificate of inspection showing the export of the dairy cattle issued by the Animal and Plant Health Inspection Service, United States Department of Agriculture; and,

(iii) For any dairy cattle exported to Canada or Mexico, a certification of exportation issued by United States customs officials or a certification of importation by officials of the importing country, unless other acceptable evidence of export to Canada or Mexico is presented.

(i) Any dairy cattle which are destroyed because of disease or for any other reason shall be considered to have been sold for slaughter.

§ 1430.459 Payments.

(a) The total amount of payments which may be made by CCC to a contracting entity under the contract shall be that amount which is equal to the accepted bid miltiplied by the contract base. Such amount shall be paid by CCC only if it has been determined that there has been compliance with all of the terms and conditions of the regulations and the contract. If any terms, conditions, or requirements of the contract are not met, payments previously made by CCC shall be refunded and no further payments shall be made by CCC.

(b) Not later than 30 days following the end of the contract disposal period each participating producer shall file a certification showing whether the following dairy cattle have been exported or slaughtered:

(1) All dairy cattle, which, on or after the bid date, were on any unit with respect to which the producer or related person was a producer on or after January 1, 1986;

(2) Any dairy cattle with respect to which such producer or related person had an interest at any time on or after the bid date.

(c) If the contract disposal period ended August 31, 1986, the certification required by paragraph (b) may be filed on or before October 30, 1986.

(d) The herd disposal completion date for purposes of the contract and this subpart shall be the date of filing of the last certification which is required to be filed by participating producers under the provisions of paragraph (b).

(e) The five-year nonproduction period for the contract shall be the period which begins on the day after the earlier of: (1) The end of the contract disposal period; or (2) The herd disposal completion date.

(f) Each participating producer's share of the total contract payment shall be indicated on the face of the contract. After the acceptance of a bid, each producer shall elect one of the two following schedules for receiving payment of the producer's share:

(1) A schedule by which not more than 80 percent of the share will be paid by CCC within 30 days of the herd disposal completion date with the remainder to be paid in four equal installments within 30 days of each of the next four anniversaries of such date; or

(2) A schedule by which not more than 85 percent of the share will be paid on the first anniversary of the herd disposal completion date with the remainder to be paid in three equal installments payable within 30 days of each of the next three anniversaries of that date.

(g) On or within 30 days following each of the first five anniversaries of the herd disposal completion date, each participating producer shall certify to the county ASCS office whether there has been compliance with the requirements of the contract. The failure of any participating producer to file such a certification shall render all of the participating producers and any other person ineligible for any payment under the contract including any payments previously made. Payments previously made shall be refunded to CCC. If any participating producer has failed to file the certification required by paragraph (b), the herd disposal completion date for purposes of this paragraph shall be considered to be the date on which the contract disposal period ended. The filing by any participating producer of the certification required by this subsection after the first day on which such certification could be filed shall extend commensurately the time by which CCC shall make payment of any payment that becomes due with respect to the anniversary of the herd disposal completion date to which the certification is applicable.

§ 1430.460 Producer and purchaser penalties.

(a) (1) A participating producer shall be subject to a marketing penalty if such producer or related person as specified in § 1430.454 retains or acquires an interest in dairy cattle or the production of milk in violation of the terms and

conditions of a contract entered into under this subpart. Such penalty shall be in additon to any other amount due CCC under this subpart and shall be applied against the full quantity of milk to which the interest in milk production applies and/or the full quantity of milk produced by the dairy cattle to which the interest applies. Such penalty shall be computed at the support price for milk in effect (as established in accordance with the provisions of 7 U.S.C. 1446) during the period in which the milk production occurred.

(2) Each person who makes a false statement with respect to a contract as to: (i) the quantities of milk marketed for commercial use by a producer, or (ii) the size or composition of the dairy herd that produced such marketings, or (iii) the size or composition of the dairy herd at the time the bid is submitted, shall be subject, in addition to any other amount due CCC, to a civil penalty of $5,000 for each head of dairy cattle to which such statement applied.

(3) In addition to any other amount due CCC, each person who makes a false statement as to the number of dairy cattle that were sold for slaughter or export under a contract under this subpart shall be subject to a civil penalty of not more than $5,000 for each head of cattle to which such statement applied.

(4) Each person who buys one or more head of dairy cattle sold for slaughter or export because of a DTP contract, who knows that such cattle are sold for slaughter or export, and who, after receiving such cattle, fails to cause the slaughter or export of such cattle within the time limits for slaughter or export as prescribed by § 1430.458 of this subpart, shall be liable for a civil penalty of not more than $5,000 with respect to each head of such cattle to which such failure of slaughter or export is applicable.

(5) Each person who knowingly violates any other provision of this subpart shall be liable for a civil penalty of not more than $1,000 for each such violation.

(b) Penalties under this subpart shall be assessed after notice and opportunity for an informal administrative hearing.

(c) Interest shall accrue on penalties at the rate which CCC is required to pay for its borrowing from the United States Treasury at the time the penalty is assessed. Further, the penalties assessed under this subpart shall be subject to late payment charges in the same manner and at the same rate which is set forth at 7 CFR Part 1403 with respect to delinquent debts which are owed to CCC.

§ 1430.461 Misrepresentation, scheme and device, and fraud.

(a) If CCC determines that any participating producer has erroneously represented any fact or has adopted, participated in, or benefitted from, any scheme or device which has the effect of, or is designed to, defeat the purpose of this subpart and/or the contract, no person shall be eligible for payments under the contract and all payments previously made to any person under the contract shall be refunded to CCC. The amount paid to CCC shall include any interest or related charges as are prescribed in § 1430.462 of this subpart.

(b) If any misrepresentation, scheme or device or practice has been employed for the purpose of causing CCC to make a payment under a DTP contract which CCC otherwise would not make, all amounts paid by CCC under the contract to any person shall be refunded to CCC together with interest and related charges as provided for in § 1430.462 of this subpart, and no further payments shall be made by CCC.

(c) If the county committee finds that any person has adopted or participated in any practice which tends to defeat the purpose of the program, the county committee may withhold or require to be refunded all or part of the payments which otherwise would be due the producer under the program.

§ 1430.462 Refunds to CCC; joint and several liability.

(a) In the event that there is a failure to comply with any term, requirement, or condition for payment arising under the contract, or this subpart, or if any refund of a contract payment to CCC shall otherwise become due in connection with the contract, all payments made under the contract to any person shall be refunded to CCC, together with interest and late payment charges as provided for in this paragraph.

(b) The participating producers in the contracting entity shall be jointly and severally liable for any refund, including related charges, which is determined to be due CCC for any reason under the terms and conditions of the contract or this subpart.

(c) Interest shall be charged with respect to any refund which is determined to be due CCC at the rate of interest which CCC is required to pay for its borrowings from the United States Treasury as of the date of the disbursement by CCC of the monies to be refunded. Interest shall accrue from the date of such disbursement by CCC. Upon the sending of the notification of the debt by CCC to the principal producer, no additional interest charges shall be assessed. However, the account shall thereafter bear late payments charges to be assessed in accordance with the provisions of, and subject to the rates prescribed in, 7 CFR Part 1403. If, for any reason, no late payment charges may be assessed with respect to such account under the provisions of 7 CFR Part 1403, additional charges on the account will accrue at the rate equal to the current rate for CCC borrowings from the United States Treasury plus three percent per annum.

(d) Participating producers who are party to a DTP contract must refund to CCC any excess payments made by CCC with respect to such contract.

(e) In the event that the contract base was established as a result of erroneous information provided by any person to the county ASCS office or was erroneously computed by such office, the contract base shall be recomputed and the payments due under the contract shall be corrected as necessary Any refund of payments which are determined to be required as a result of such recomputation of the contract base shall be remitted to CCC.

§ 1430.463 Cumulative liability.

The liability of any person for any penalty under this subpart or for any refund to CCC or related charge arising in connection therewith shall be in addition to any other liability of such person under any civil or criminal fraud statute or any other statute or provision of law including, but not limited to, 18 U.S.C. 286, 287, 371, 641, 1001; 15 U.S.C. 714m; and 31 U.S.C. 3729.

§ 1430.464 Assignments of payments.

Payments which are earned by a producer under a DTP contract may be assigned in accordance with the provisions of 7 CFR Part 709, except that such assignments may also be made to secure or pay pre-existing indebtedness.

§ 1430.465 Setoffs and withholdings.

The regulations issued by the Secretary of Agriculture with respect to setoffs and withholdings, 7 CFR Part 13, and any amendments thereto shall be applicable to the Dairy Termination Program authorized by this subpart. Any amount due CCC under the program

provided for in this subpart shall be subject to setoffs and withholdings pursuant to those regulations.

§ 1430.466 Appeals.

Reconsideration and review of the determinations made under this subpart shall be made in accordance with the Administrative Appeal Regulations, 7 CFR Part 780. If any penalty determination is delegated to any agency of the Department other than ASCS such determination shall be made by such delegatee under procedures which, as near as practicable, shall comport with Part 780.

§ 1430.467 Performance based upon advice of action of county or state committee.

The provisions of 7 CFR Part 790 and any amendments thereto, relating to performance based upon action or advice of an authorized representative of the Secretary shall be applicable to this subpart.

§ 1430.468 Miscellaneous provisions.

(a) It is the responsibility of participating producers that CCC, or its designee, have full and complete access to all units with respect in which any of the participating producers or related persons was a producer on or after January 1, 1986, and any unit on which were located any dairy cattle in which any such person had an interest in dairy cattle on or after that date.

(b) Each participating producer or knowing purchaser of dairy cattle sold pursuant to a DTP contract must, for a period three years from the date of the nonproduction period under this contract or for such longer period as CCC may specify, keep, maintain, and make available to CCC all records which CCC may require to enforce provisions of the contract, as well as any records necessary to establish compliance with the terms and conditions of this contract of this subpart.

(c) Any payment which is due any person shall be allowed without regard to questions of title under State law and without regard to any claim or lien against the unit or any milk produced from the unit, and the proceeds, thereof, which may be asserted by any creditor, except agencies of the United States Government.

(d) There shall be no succession of interest in any DTP contract except that, upon the death of a participating producer, the estate of such producer may perform the obligations of the producer under the contract or, upon approval of the CCC, may assign the contract.

(e) Notwithstanding any other provisions of this subpart, the retention or holding of dairy cattle otherwise prohibited by this subpart may be permitted if the Executive Vice President, CCC, or the Executive Vice President's designee, determines that such retention will not defeat the goals of the Dairy Termination Program.

(f) The participating producer shall execute all certifications specified in the contract or required by CCC or any other representative of the Department in the administration of this subpart.

(g) The burden shall be on participating producers to establish compliance with the requirements of the contract and this subpart. In addition, buyers of dairy cattle to which a DTP contract applies shall have the burden of establishing compliance with the provisions of this subpart.

§ 1430.469 Other regulations.

The following regulations and amendments thereto shall also be applicable to this subpart:

(a) 7 CFR Part 13—Setoffs and Withholdings;

(b) 7 CFR Part 707—Payments Due Persons Who Have Died, Disappeared or Have Been Declared Incompetent;

(c) 7 CFR Part 780—Appeal Regulations;

(d) 7 CFR Part 790—Incomplete Performance Based Upon Action or Advice of an Authorized Representative of the Secretary;

(e) 7 CFR Part 791—Authority to Make Payments When There Has Been a Failure to Comply Fully With the Program;

(f) 7 CFR Part 796—Harvesting of Marijuana or Other Such Drug-Producing Plants for Illegal Use; and

(g) 7 CFR Part 1403—Interest on Delinquent Debts.

§ 1430.470 Paperwork Reduction Act assigned numbers.

The information collection requirements contained in these regulations (7 CFR Part 1430) have been approved by the Office of Management and Budget (OMB) under the provisions of 44 U.S.C. Chapter 35 and have been assigned OMB Control Number 0560-0124.

Signed at Washington, DC, on March 4, 1986.

Frank W. Naylor,

Acting Secretary, U.S. Department of Agriculture.

[FR Doc. 86-5083 Filed 3-6-86; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 85-NM-144-AD; Amdt. 39-5251]

Airworthiness Directives; British Aerospace Viscount Models 700 and 800 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, correction.

SUMMARY: This action corrects an existing airworthiness directive (AD) applicable to British Aerospace Aircraft Group Viscount Models 700 and 800 series airplanes. AD 84-07-03 requires inspection and modification of the nose landing gear to prevent collapse. This amendment clarifies the compliance time of that AD.

DATE: Effective March 24, 1986.

ADDRESSES: The service bulletin specified in this AD may be obtained upon request to British Aerospace, Inc., Box 17414, Dulles International Airport, Washington, DC 20041, or may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

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

SUPPLEMENTARY INFORMATION: The FAA issued Amendment 39-4837, AD 84-07-03 on March 22, 1984 (49 FR 13014). This AD requires an inspection and modification to the nose landing gear on British Aerospace Viscount Models 700 and 800 airplanes. Paragraphs 1. and 2. of the airworthiness directive give the required compliance time as follows: "Within the next six months time in service after the effective date of this airworthiness directive . . ." The words *time in service* as defined in FAR Part 1, mean "the time from the moment an aircraft leaves the surface of the earth until it touches it at the next point of landing." Since the intent of the AD was to have compliance within six months after the effective date of the AD, an amendment is necessary to delete the words ". . . time in service" in paragraphs 1. and 2. of the AD.

Since this amendment only makes a correction to provide a clarification, it has no adverse economic impact and imposes no additional burden on any person. Therefore, notice and public

procedures hereon are unnecessary and the amendment may be made effective in less than 30 days.

The FAA has determined that this amendment is not considered to be major under Executive Order 12291 or significant under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is further certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic effect on a substantial number of small entities because few, if any, Model BAe Viscount Series 700 and 800 airplanes are operated by small entities. A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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.

2. By revising Airworthiness Directive 84–07–03, Amendment 39–4837 (49 FR 13014; March 22, 1984), as follows:

Remove the words ". . . time in service . . ." from the first sentence of paragraphs 1. and 2.

This amendment becomes effective March 24, 1986.

Issued in Seattle, Washington, on February 27, 1986.

Thomas J. Howard,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–4943 Filed 3–6–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 39

[Docket No. 85–NM–94–AD; Amdt. 39–5252]

Airworthiness Directives; Fairchild Model F27 and FH227 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This notice adopts a new airworthiness directive (AD), applicable to Fairchild Model F27 and FH227 series airplanes, which requires inspection and replacement, if necessary, of the main landing gear drag strut assemblies. Cracks in the tube bores in the vicinity of the lock strut attachments have been reported. These checks, if allowed to grow undetected, could cause failure of the main landing gear drag strut assemblies and loss of control of the airplane.

DATES: Effective April 13, 1986.

Compliance schedule as prescribed in the body of the AD, unless already accomplished.

ADDRESSES: The applicable service information specified in this AD may be obtained from Fairchild Industries, Inc., Fairchild Republic Division, Hagerstown, Maryland 21740. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the New York Aircraft Certification Office, FAA, New England Region, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

FOR FURTHER INFORMATION CONTACT: Mr. Alfred A. Maila, ANE–172, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York 11581; telephone (516) 791–6221.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations by adopting an airworthiness directive (AD) which would require an eddy current or ultrasonic inspection for cracking in the tube bore in the vicinity of the lock strut attachments, and replacement, if necessary, of the main landing gear drag stay assembly of Fairchild F27 and FH227 series airplanes, was published in the **Federal Register** on November 29, 1985 (50 FR 49055). The comment period closed on January 20, 1986.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received.

After careful review of the available data, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed. Minor editorial changes have been made in the final rule to clarify the applicability of provisions of the referenced service bulletins.

It is estimated that 57 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2.5 manhours per airplane to accomplish the required actions, and that the average labor cost will be $40 per manhour. Repair parts are estimated to be $8323 per airplane. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $480,111.

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 of the minimal cost of compliance per airplane ($100 per inspection). A final evaluation has been prepared for this regulation and has been placed in the docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

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 (14 CFR 39.13) as follows:

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

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

2. By adding the following new airworthiness directive:

Fairchild: Applies to all Model F27 and FH227 series airplanes certificated in any category. Compliance required as indicated.

To detect cracks in the FH227 and F27 main landing gear drag strut assemblies due to the bores of some tubes having surface break-up generated during the drawing process, accomplish the following, unless previously accomplished:

A. For airplanes which have accumulated 20,000 landings or more prior to the effective date of this AD, within 400 hours time-in-service after the effective date of this AD, using eddy current or ultrasonic inspection equipment and procedures, inspect the left and right upper main undercarriage drag stay for flaws, in accordance with the Accomplishment Intructions and sketches outlined in Dowty Rotol Service Bulletin 32–45N (for Model FH227 airplanes) or Service Bulletin 32–81C (for Model F27 airplanes), dated October 16, 1981.

B. For airplanes which have accumulated more than 10,000 landings but less than 20,000 landings prior to the effective date of this AD, within 800 hours time-in-service after the effective date of this AD, using eddy current or ultrasonic inspection equipment and procedures, inspect the left and right upper main undercarriage drag stay for flaws in accordance with the Accomplishment Instructions and sketches outlined in Dowty Rotol Service Bulletin 32–45N (for Model FH227 airplanes) or Service Bulletin 32–81C (for Model F27 airplanes), dated October 16, 1981.

C. Within 2,000 hours time-in-service after the effective date of this AD, visually inspect the left and right upper main undercarriage stay in accordance with Dowty Rotol Service Bulletin 32–45N (for Model FH227 airplanes) or Service Bulletin 32–81C (for Model F27 airplanes), Item 2B(1)(2)(3)(4), dated October 16, 1981.

D. If, as a result of the inspections referred to in paragraphs A. and B., above, flaws are detected, replace damaged part with a serviceable part prior to next flight.

E. Upon the request of an operator, an FAA Maintenance Inspector, subject to prior approval by the Manager, New York Aircraft Certification Office, FAA, New England Region, may adjust the inspection times specified in this AD to permit compliance at an established inspection period of that operator if the request contains substantiating data to justify the change for that operator.

F. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base in order to comply with the inspection requirements of this AD.

G. Alternate means of compliance which provide an acceptable level of safety may be used when approved by the Manager, New York Aircraft Certification Office, FAA, New England Region.

All persons affected by this proposal who have not already received these documents from the manufacturer may obtain copies upon request to Fairchild Industries, Inc., Fairchild Republic Division, Hagerstown, Maryland 21740. These documents may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or at the FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Room 202, Valley Stream, New York.

This Amendment becomes effective April 13, 1986.

Issued in Seattle, Washington, on February 27, 1986.

Thomas J. Howard,

Acting Director, Northwest Mountain Region.

[FR Doc. 86–4944 Filed 3–6–86; 8:45 am]

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DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Parts 225 and 277

[Docket Nos. RM80–8–001 through RM80–8–005; Order No. 95–A]

Right of First Refusal of Bona Fide Offers; Order Granting in Part and Denying in Part Applications for Rehearing, Reconsideration and Clarification of Order No. 95

Issued: February 28, 1986.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order on Rehearing.

SUMMARY: The Federal Energy Regulatory Commission is granting in part and denying in part applications for rehearing, reconsideration, and clarification of its final rule implementing section 315(b) of the Natural Gas Policy Act of 1978. That section provides that upon expiration of contracts for the sale of certain categories of natural gas removed from the Commission's Natural Gas Act (NGA) jurisdiction, the seller must make a bona fide offer to the purchaser and give the purchaser an opportunity to match a third party offer before selling the gas to a third party. The Commission grants rehearing in order to (1) eliminate the Commission's interpretation that § 154.93 of its NGA regulations governs the price escalation clauses which may be included in a bona fide offer, (2) remove the original purchaser's right to alter the delivery terms of a third party offer, (3) eliminate the prohibition on waivers of section 315(b) rights more than one year before contract expiration, (4) provide that the requirement that bona fide offers not be made more than eighteen months before contract expiration does not apply to implied contracts, and (5) limit the record retention requirement to three years.

EFFECTIVE DATE: May 21, 1986.

FOR FURTHER INFORMATION CONTACT: Richard Howe, Jr., Office of the General Counsel, Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, (202) 357–8308.

SUPPLEMENTARY INFORMATION:

Order No. 95–A; Order Granting in Part and Denying in Part Applications for Rehearing, Reconsideration and Clarification of Order No. 95

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt, and C.M. Naeve.

Bona Fide Offers; Right of First Refusal: Docket Nos. RM80–8–001, RM80–8–002, RM80–8–003, RM80–8–004, and RM80–8–005.

Issued: February 28, 1986.

I. Introduction

The Federal Energy Regulatory Commission (Commission) is granting in part and denying in part applications for rehearing, reconsideration, and clarification of Order No 95.[1] The final rule adopted by that order implemented section 315(b) of the Natural Gas Policy Act of 1978 (NGPA).[2] That section requires a seller of certain categories of natural gas, for which the existing contract expires, (1) to make a bona fide offer to the original purchaser to continue to sell that gas and, (2) if the bona fide offer is rejected, to extend to the purchaser the right of first refusal of the gas on the basis of a third party offer. The Commission is amending Parts 255 and 277 of its regulations to make necessary clarifications and revisions, both in response to the applications of rehearing and clarification and as a result of the Commission's March 14, 1985 request for further comment on its rules under Order No. 95 in light of deregulation.[3]

II. Background

Section 315(b) of the NGPA modifies the effect of the removal of certain gas from Natural Gas Act (NGA) jurisdiction by NGPA section 601(a)(1)(B). The gas so removed is gas committed or dedicated to interstate commerce on November 8, 1978, which is also (1) new natural gas as defined in NGPA section 102(c),[4] (2) natural gas produced from any new, onshore production well as defined in NGPA section 103(c), or (3) high-cost natural gas as defined in NGPA section 107(c)(1)–(4). Without section 601(a)(1)(B), the seller of such gas would be required to continue to make sales to the original purchaser, even after a contract expires, until the Commission authorized abandonment of service under section 7(b) of the NGA.[5]

Section 315(b) provided a form of substitute protection to purchasers. It gave the purchaser of gas removed from NGA jurisdiction two opportunities to contract with the seller for continued delivery of the gas—the opportunity to accept a bona fide offer which the seller must make to him and the right to match the terms of a third party offer to purchase the gas (right of first refusal). Congressman Dingell described the purpose of section 315(b) as follows:

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[1] Bona Fide Offers, Right of First Refusal, 45 FR 53, 116, (Aug. 11, 1980) (Order No. 95) (codified at 18 CFR 277.201–10 (1985)).

[2] 15 U.S.C. 3375(b) (1982).

[3] Bona Fide Offers; Right of First Refusal, 50 FR 10,243 (Mar. 14, 1985) (Notice of Request for Additional Comments). This notice is hereinafter referred to as the March notice.

[4] Thus, gas produced from a new lease on the Outer Continental Shelf (OCS) (NGPA section 102(c)(1)(A)) is removed from NGA jurisdiction, but OCS gas produced from a new reservoir under an old lease (NGPA section 102(d)) is not.

[5] 15 U.S.C. 717f (1982). *See* Sunray Mid-Continent Oil Co. v. FPC, 364 U.S. 137 (1960). Under the NGA, neither producer nor pipeline may cease deliveries to their respective customers without complying with section 7. California v. Southland Royalty Co., 436 U.S. 519, 527 (1978).

This section was included principally to ensure a degree of continuity of gas supplies to the interstate system despite non-price deregulation of certain categories of gas. . . . It has been correctly observed that, in conjunction with the Commission's authority under sections 501 and 503, section 315 provides a mechanism to protect the security of present interstate pipeline supplies. . . .[6]

The Commission in Order No. 95 established Part 277 of its regulations in order to implement section 315(b). Section 277.205 of Part 277 requires a seller of gas covered by NGPA section 315(b) to make a bona fide offer to the original purchaser for the continued sale of gas generally before the expiration or termination of the contract covering the gas.[7] The purchaser may accept or reject the bona fide offer. If the purchaser accepts the bona fide offer, the matter is thereby concluded.

If the purchaser rejects the bona fide offer, § 277.206 requires the seller to extend to the original purchaser a right of first refusal of such natural gas before the seller may sell the gas to a third party. The right of first refusal gives the original purchaser the right to match the terms of the third party's offer to purchase the natural gas. If the offer is rejected, the seller can then sell the gas to the third party under the terms of the offer. If the original purchaser in its acceptance alters any terms of the offer, other than delivery point, treating, conditioning or compression, the purchaser is deemed to have rejected the offer and the seller is free to sell the gas to the third party. Once the gas is sold to a third party pursuant to an offer rejected by the original purchaser, the seller has no further obligation under section 315(b) to the original purchaser. The seller's obligation to the original purchaser could end sooner, however, should the purchaser waive its rights under section 315(b) and applicable regulations.

Three applications for rehearing, one application for reconsideration and one application for clarification were filed concerning Order No. 95.[8] On March 11, 1985, the Commission requested additional comments primarily concerning whether and how the recent changes in the natural gas market, including the January 1, 1985, price-deregulation of section 102(c) and some section 103(c) gas, should affect the Commission's disposition of the issues raised on rehearing. Seventeen companies, three trade associations, and one state commission filed comments.

This order grants rehearing in order to (1) eliminate the Commission's interpretation in Order No. 95 that § 154.93 of its NGA regulations governs the price escalation clauses which may be included in a bona fide offer, (2) remove the original purchaser's right to alter the delivery terms of a third party offer, (3) eliminate the prohibition on waivers of section 315(b) rights more than one year before contract expiration, (4) provide that the requirement that bona fide offers not be made more than eighteen months before contract expiration does not apply to implied contracts, and (5) limit the period for which records are required to be kept to three years.

III. Discussion

A. Interpretation of Section 315(b)

Several applicants for rehearing[9] allege that the final rule exceeded the Commission's statutory authority under section 315(b) by imposing what is effectively NGA regulation on sales of gas no longer subject to that Act. Some applicants[10] also contend that the final rule misinterpreted section 315(b) as requiring that a bona fide offer and an opportunity to reject a third party offer be given in all instances.

1. Terms Legal Under the Natural Gas Act

The applicants contend that the Commission reimposes NGA jurisdiction through its definition of "bona fide offer." Section 277.203(c) of the final rule defines bona fide offer to mean, in part, a "written offer by the seller to the original purchaser which would be *legal for such purchaser to accept under the Natural Gas Act . . .*" (emphasis added).[11] This language is in the NGPA Conference Report. The conferees explained that "the term bona fide offer is intended, at a minimum, to include terms that would be legal for any purchaser to accept under the Natural Gas Act."[12] Order No. 95 stated that this wording in § 277.203(c) applied to bona fide offers the legal restrictions in § 154.93 of the Commission's NGA rules (18 CFR 154.93).[13] Section 154.93 invalidates any pricing provisions in gas contracts under the NGA other than fixed price clauses, area rate clauses, or five-year price redetermination clauses. Accordingly, § 154.93 prohibits indefinite escalation clauses, such as favored nation clauses.[14]

Applicants argue that, by restricting the pricing provisions of the bona fide offer to the clauses permitted under § 154.93, the rule violates the intent of Congress in enacting NGPA section 601(a)(1)(B), which was to remove certain gas from NGA sales jurisdiction. Many of the commenters responding to the March notice support the applicants' contentions.[15] A few of the commenters oppose those contentions.[16]

The Commission agrees that section 315(b) was not intended to prevent parties from negotiating price escalation clauses that authorize collection of deregulated or NGPA maximum lawful prices. The preclusion of such clauses would frustrate the collection of prices authorized by the NGPA.

In *Pennzoil Co.* v. *FERC*,[17] the court held that Congress prohibited the Commission from applying § 154.93 to existing interstate contracts for the sale of committed or dedicated gas subject to NGPA sections 102(c), 103(c), or 107(c)(1)–(4) through removal of that gas from NGA jurisdiction by section 601(a)(1)(B). By the same reasoning, Congress must also have intended through section 601(a)(1)(B) to prohibit the Commission from applying § 154.93 to bona fide offers to enter into new contracts covering gas removed from NGA jurisdiction. It makes no sense to permit indefinite price escalation clauses in existing contracts but prohibit them in the subsequent new contracts.

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[6] 124 Cong. Rec. 38,306 (1978).

[7] The rule also requires a bona fide offer for gas sold in interstate commerce under an implied contract under the NGA for which no written contract is in effect. Under § 277.205(b)(2), the bona fide offer would have to be made within twenty days after gas is removed from NGA jurisdiction by a jurisdictional agency determination under section 503 of the NGPA.

[8] Arco Oil and Gas Co. (Arco) and Indicated Producers filed applications for rehearing on Aug. 25 and 27, 1980. Pennzoil Co., Pennzoil Producing Co., Pennzoil Oil and Gas, Inc., Pogo Producing Co., General American Oil Co. of Texas, Texasgulf, Inc., and Ashland Exploration, Inc., (Pennzoil *et al.*), filed a joint motion for rehearing on Aug. 27, 1980). American Natural Production Co. (American Filed a petition for reconsideration on Oct. 24, 1980. Bass Enterprises Production Co. (Bass) filed an application for clarification on Dec. 14, 1984.

[9] Indicated Producers and Pennzoil *et al.*

[10] Arco and Pennzoil *et al.*

[11] 18 CFR 277.203(c) (1985).

[12] H.R. Rep. No. 1752, 95th Cong., 2d Sess. 111, *reprinted in* 1978 U.S. Code Cong. & Ad. News 8983, 9027.

[13] Bona Fide Offers; Right of First Refusal, 45 FR 53116, 53,117 (Aug. 11, 1980) (Order No. 95) (codified at 18 CFR 277.201–10 (1985)).

[14] *See* Pure Oil Co., 25 F.P.C. 383 (1961), *aff'd.* Pure Oil Co. v. FPC, 299 F.2d 370 (7th Cir. 1962).

[15] These include Oxley Petroleum (Oxley), Independent Oil and Gas Assoc. of West Virginia (IOGA), Amoco Production Co. (Amoco), Interstate Natural Gas Assoc. of America (INGAA), Bass Enterprises Production Co. and Samson Resources Co. (Bass), Tennessee Gas Pipeline Co. (Tennessee), and Natural Gas Pipeline Co. of America.

[16] Pacific Gas and Electric Co. (PG & E), Columbia Gas Transmission Corp., (Columbia) and Consolidated Gas Transmission Corp. (Consolidated).

[17] 645 F.2d 360, 381 (5th Cir. 1981), *cert denied*, 454 U.S. 1142 (1982).

Moreover, the Commission has established a practice of waiving § 154.93 to permit acceptance of contracts for the sale of gas subject to the NGA containing certain indefinite price escalation clauses.[18] In light of this practice, it would be unreasonable to apply a more stringent standard to gas removed from NGA jurisdiction by section 601(a)(1)(B). Accordingly, the Commission modifies Order No. 95 so as to permit the use in bona fide offers of indefinite price escalation clauses.

2. Must a Seller Give the Original Purchaser Both a Bona Fide Offer and Right of First Refusal? (§ 277.204(a))

Section 277.204(a) of the final rule provides that a seller may not make a first sale of natural gas covered by section 315 until the original purchaser has rejected *both* a bona fide offer *and* an offer substantially accepted in principle by a third party purchaser.

Some applicants for rehearing[19] assert that the Commission misinterpreted section 315(b) to establish cumulative rather than disjunctive requirements with respect to the seller's obligations to the purchaser.[20] They argue that section 315(b)(2) does not require a bona fide offer in the event a contract expires because section 315(b)(2) does not mention contract expiration. They also point out that section 315(b)(3) requires a seller to extend a right of first refusal if *either* a contract expires or if a bona fide offer is rejected. The applicants contend that this means that a bona fide offer need not be extended when a contract expires. They claim that such an offer should be extended only if gas has never been sold under a contract, for example when a seller negotiates with the pipeline for the initial sale of gas from committed or dedicated but undrilled reserves. In support of its interpretation that section 315(b) does not require a bona fide offer when a contract expires, Arco suggests that the Commission could avoid jeopardizing the pipeline's supply in the absence of a bona fide offer by amending the final rule to require continuation of deliveries after a contract expires until the purchaser fails to exercise its right of first refusal.

The Commission rejects the applicants' interpretation of section 315(b). Their interpretation reads paragraph (2) of section 315(b) out of the statute. That paragraph independently requires the Commission to develop regulations requiring that a bona fide offer to sell any gas "subject to the requirements of this subsection" be made to the person who, but for removal of the gas from NGA jurisdiction, would be entitled to receive that gas. Accordingly, the bona fide offer requirements of section 315(b)(2) apply to all gas removed from NGA jurisdiction by section 601(a)(1)(B) regardless of whether an existing contract has expired.

The Conference Report also supports the conclusion that a purchaser must receive a bona fide offer and right of first refusal in all cases. The conferees noted that:

> Following the expiration of any contract covering such natural gas, and any rejection of a bona fide offer by the purchaser who would have been entitled to receive the gas under the Natural Gas Act, such purchaser is granted a right of first refusal.[21]

The Commission interprets section 315(b)(3) to mean that the right of first refusal vests at the earlier of the time of contract expiration or rejection of the bona fide offer.[22] The Commission believes that it is left free to determine the appropriate procedural timing of any exercise of the right of first refusal in relation to the bona fide offer. Conditioning the exercise of the right of first refusal on the rejection of a bona fide offer is entirely consistent with section 315(b)(3).

If a disjunctive interpretation of section 315(b) were adopted, existing customers would be deprived of the protection, which a bona fide offer provides, against cessation of deliveries after expiration of the contract. By requiring a bona fide offer to be made by the seller whenever a contract expires or terminates, the final rule protects purchasers during the period between expiration of the contract and rejection of a bona fide offer.

B. Technical Aspects of Bona Fide Offers, Right of First Refusal, and Interim Protective Sales

Applicants for rehearing and some commenters argue that, in various respects, the bona fide offer, right of first refusal, and interim protective sales provisions of the final rule are not justified under section 315(b) in terms of contract practices. They contend in essence that the rules are too complicated and burdensome and interfere with private contracts concerning deregulated gas.

The Commission does not, as a general matter, believe that the final rule establishes unnecessary requirements or unduly interferes with the private contracting process. Any abridgment of the contracting process derives from the statute itself, which balances the rights of the seller to market gas at the highest lawful price and the rights of purchasers to continue receiving such gas. As discussed below, the Commission does grant rehearing to eliminate the original purchaser's right to alter the terms of delivery in a third party offer, to eliminate the prohibition on waivers of section 315(b) rights more than one year before contract expiration, and to clarify that a requirement concerning the making of bona fide offers does not apply to implied contracts. These changes should minimize the rule's interference with private contracts.

1. Timing of Bona Fide Offer (§ 277.205(b))

The final rule requires a bona fide offer to be made not later than 20 days before expiration of the contract or, if a final NGPA well determination is made less than 45 days before contract expiration, not later than 20 days after that determination. Some applicants for rehearing[23] argue that the Commission has no statutory authority to impose deadlines on making a bona fide offer. In addition, those applicants and one commenter[24] interpret the rule to mean that, if a seller fails to extend a bona fide offer 20 days before the contract expires, the seller may never abandon the sale to the pipeline. Other applicants believe that the rule is unnecessary or should be amended to consider such exigencies as oversight, delay in transmittal, or sudden termination which may preclude compliance with the rule.[25]

Although section 315(b) itself does not provide for the timing of bona fide offers, the Commission believes that the 20-day rule is necessary to effectuate the purpose of section 315(b). Accordingly, the Commission may establish the deadline pursuant to its authority under NGPA section 501 to issue such rules as are necessary to carry out its functions under the NGPA. The deadline provides sellers with a clear indication of the nature of their duty to satisfy their section 315(b) obligations promptly and encourages the negotiation of a new

[18] *See* Exxon Corp., 13 FERC ¶ 61,105 (1980) (in which the Commission eliminated the § 154.93 condition from a producer certificate for sales of section 104 gas).

[19] Arco and Pennzoil *et al.*

[20] Applicants note that paragraphs (A) and (B) of section 315(b)(3) are separated by the word "or" rather than "and."

[21] H.R. Rep. No. 1752, 95th Cong., 2d Sess. 111, *reprinted in* 1978 U.S. Code Cong. & Ad. News 8983, 9027.

[22] Bona Fide Offers; Right of First Refusal, 45 FR 53,116, 53,118 (Aug. 11, 1980) (Order No. 95) (codified at 18 CFR 277.201–10 (1985)).

[23] Pennzoil *et al.*

[24] Amoco.

[25] Indicated Producers.

contract before expiration of the current contract by affording ample time for such negotiation before the contract expires. Furthermore, if the existing contract provides a higher price than the seller could otherwise expect, the seller's interests would lie in delaying a bona fide offer and continuing deliveries at the existing contract price under §§ 277.205(a) and 277.207. Consequently, without the deadline, a seller might never extend a bona fide offer. This would contravene the intent of section 315(b). On the other hand, if the seller could obtain a higher price under the new contract it would be in the seller's interest to make a timely bona fide offer in any event in order to avoid imposition of the less favorable terms of the expired contract.

The Commission believes that the 20-day rule should not unduly burden any contracting party subject to the requirements of section 315(b). A seller generally monitors individual contracts and this is especially true in light of its possible obligation to continue deliveries after a contract expires. Therefore, this requirement should have no adverse effect on the conduct of contract negotiations. In addition, if a seller fails to meet the 20-day deadline, the final rule does not, as applicants and one commenter apparently fear, compel a seller to continue sales to the original purchaser indefinitely at the existing contract price without the benefit of a new contract or the prospect of abandoning the service. A seller who misses the 20-day deadline is still required to extend a bona fide offer. Once the seller extends the bona fide offer, § 277.205(a) requires continued deliveries only until the existing customer rejects the bona fide offer. The purchaser must either accept or reject the offer within twenty days after its receipt (§ 277.205(c)).

2. Right of First Refusal (§ 277.206)

Section 277.206 of the final rule requires a seller to present any offer substantially accepted in principle by a third party purchaser in an arms-length transaction to the original purchaser. Applicants for rehearing and some commenters contend that the final rule (a) requires the third party offer to be overly detailed and specific, (b) improperly prohibits third party offers from affiliates of the seller, (c) improperly prohibits all sales to third parties until after a right of first refusal has been given, and (d) improperly allows the original purchaser to alter the provisions in the third party offer concerning the place and physical conditions of delivery and provides insufficient compensation to the seller when such changes are made.

(a) *Offer Substantially Accepted in Principle (§ 277.203(e))*—The NGPA requires that a purchaser must be given a chance to accept or reject an offer to sell the gas to a third party that is "substantially accepted in principle" by the third party. Although the statute does not define "offer substantially accepted in principle," § 277.203(e) defines it as a written acceptance of a written offer that is "sufficiently firm" that a binding contract will result if the original purchaser rejects the written offer. Some applicants [26] argue that the requirement imposes an undue burden on sellers without sufficient justification. They see no reason to require a high degree of completeness in an offer to a third party when the original purchaser can unilaterally alter major terms of that offer.

The Commission disagrees. The rule is necessary to ensure that the offer given to the original purchaser really reflects the "market conditions" it must meet if it wants to continue to receive the gas. The rule accomplishes this objective by requiring that the offer be clear on major terms. The rule, however, does not require a seller to negotiate comprehensive gas sales contracts with third parties. Such a requirement would be unduly burdensome. The Commission views the final rule as requiring the parties to reach an agreement on major substantive points, such as price, delivery point, pressure, and rate of take. The parties are free later to negotiate minor points if the original purchaser rejects the offer.

In the Commission's view, applicants may have misinterpreted the extent of the original purchaser's ability to vary the terms of the third party offer. The purchaser's only right to vary terms under that rule unilaterally was its option to take the gas at the delivery point and under the physical conditions of delivery specified in the existing contract. On rehearing the Commission has decided to eliminate that unilateral right, as discussed more fully below. Consequently, the original purchaser cannot unilaterally change any substantive terms of the third party offer.

(b) *Prohibition Against Affiliated Third Party Purchasers (§ 277.203(b))*—Section 315(b)(3) of the NGPA requires that the offer tendered to the original purchaser for first refusal must have been substantially accepted in principle by another person in an "arms-length transaction." The final rule defines "arms-length" as requiring adverse economic interests and excludes transactions between affiliates or family members. As a consequence of this rule, a seller may neither obtain a written acceptance from, nor make a first sale to, an affiliated pipeline, unless the original purchaser waives the prohibition under § 277.209.

Some applicants for rehearing [27] and commenters [28] argue that the Commssion should eliminate the per se exclusion of affiliated transactions and apply the comparable sales standard found in NGPA section 601(b)(1)(E). They contend that, under a comparability standard, transactions between affiliates could be treated as arms-length transactions if the amounts to be paid for gas do not exceed the amounts paid in comparable transactions between non-affiliates. Hence, removing this prohibition would avoid disparate treatment between affiliated and non-affiliated third party purchasers. One commenter [29] states that that disparate treatment could place an affiliate pipeline at a substantial disadvantage in the marketplace by preventing it from competing for its affiliated producer's gas. Finally, while a purchaser may waive the rule requiring non-affiliated transactions, applicants allege that the purchasers could abuse those waiver rights. For example, when an affiliate is the original purchaser's only competitor for the gas, the original purchaser might refuse to waive the prohibition against affiliated transactions so as to avoid competition for the gas and secure a lower price.

In its final rule, the Commission rejected the argument that a third party comparable sales standard was more appropriate than an absolute prohibition. The Commission observed that:

> Inasmuch as the language of section 315 explicitly requires that transactions be at arms-length, the Commission finds that affiliate transactions were not intended to be included in the scheme of the right of first refusal.[30]

Applicants offer no new reasons to support a rescission or revision of this provision. The comparability test suggested by the applicants and some commenters would be administratively more difficult for the Commission to carry out. The Commission would have

[26] Pennzoil *et al.*

[27] Indicated Producers and American.

[28] Tennessee, Texaco, Inc. (Texaco), and Bass.

[29] Tennessee.

[30] Bona Fide Offers; Right of First Refusal, 45 FR 53,116, 53,119 (Aug. 11, 1980) (Order No. 95) (codified at 18 CFR 277.201–10 (1985)).

to analyze on a case-by-case basis which transactions between affiliates were comparable to those between non-affiliated entities. The factual inquiries thus necessitated would place a significant burden on the Commission. Moreover, the prohibition against affiliated transactions ensures the seller a price that is supported by the market. A purchaser's right of first refusal should not be subject to transactions between parties with a possible identity of interests unless the purchaser so chooses. There exist in such transactions the potential for prices higher than the market. Since the price paid by an affiliate does not affect the profit of the overall entity of which the affiliate is a part, an affiliated purchaser might not negotiate as hard for a low price as a non-affiliated purchaser.

Finally, there is no evidence that the problem of an affiliate being the original purchaser's only competitor for the gas occurs in a significant number of cases. When this problem does occur and the seller believes that permitting a third party offer from an affiliate is the only means of assuring that it receives a fair price for its gas, the seller may apply to the Commission for a waiver of the § 277.203(b) prohibition against affiliated third party purchasers.

Similarly, there is no evidence that foreclosing an affiliated purchaser from making an offer to purchase its affiliated producer's section 315(b) gas causes those purchasers difficulty in obtaining gas in a significant number of cases. However, if such a problem does occur, the purchaser could apply for a waiver of § 277.203.

(c) *Prohibition on Sales to Third Parties Until After Right of First Refusal Is Given (§ 227.204(a))*—One commenter [31] states that, regardless of the prohibition on a seller's tendering an offer from an affiliate for first refusal, the seller should be free to sell gas to an affiliate after rejection of a bona fide offer without giving the original purchaser a right of first refusal. The commenter argues that section 315(b)(3)'s requirement that the seller give the original purchaser a right of first refusal of offers accepted in arms-length transactions implicitly permits the seller to make non-arms-length sales without giving a right of first refusal.[32] Accordingly, the commenter proposes that the prohibition in § 277.204(a) on sales "to any third party purchaser" until after a right of first refusal has been given should be modified to prohibit only sales to third parties in arms-length transactions.[33]

The Commission does not believe that the statute permits sellers to sell gas to an affiliate without giving the original purchaser a right of first refusal. By granting the right of first refusal, the statute provides original purchasers a substitute for the protection previously afforded them by the requirement that the seller obtain abandonment authorization from the Commission before selling to a third party. To permit sales to affiliates without offering a right of first refusal, however, would allow a seller to nullify this substitute protection by the simple expedient of selling to its affiliates. The Commission believes that the language of the statute concerning arms-length transactions must be read solely to provide that the offer which must be tendered to the original purchaser for first refusal before a sale to any third party be one accepted by the third party in an arms-length transaction.

(d) *Delivery Terms Under An Accepted Offer (§ 277.206(d))*—The final rule provided that the original purchaser may accept the third party offer but receive the gas at the delivery point and under the physical conditions of delivery in the original contract even though the offer contains other terms (§ 277.206(d)). If the original purchaser exercises this option, the seller may apply to the Commission for increased costs incurred in delivering the gas under the old delivery terms as opposed to those in the third party offer, provided that collection of the allowance will not exceed any applicable maximum lawful price.

Some applicants for rehearing[34] and a number of commenters[35] argue that these provisions unjustifiably abridge the contracting process by overriding the seller's ability to negotiate such non-price terms of the contract as delivery, treating, conditioning, and compression. They believe the final rule improperly requires the producer to sell gas under the existing contract subject only to third party negotiations on price and "rates of take." The applicants contend that Congress intended to afford original purchasers only the protection of the market place and that accordingly the original purchaser must accept all the terms of the third party offer or forfeit further rights under section 315(b). If the Commission rejects these arguments, the applicants request that it provide greater guidance concerning (1) the compensation the seller may obtain for its increased costs resulting from the original purchaser's exercise of its rights under § 277.206(d) and (2) the method by which it may collect such costs.

The Commission, in the March notice, solicited comments on whether the provisions of § 277.206(d) should be altered in light of developments in the gas market since the final rule was issued and in light of the price-deregulation of section 102(c) and some section 103(c) gas on January 1, 1985. That deregulation, combined with the July 1, 1979 price-deregulation of section 107(c) (1) through (4) gas, means that most gas subject to section 315(b) is now price-deregulated. Numerous commenters addressed the issue, some supporting elimination of the original purchaser's right to alter delivery terms, others opposing elimination of that right.[36] After examining those comments, the Commission has determined that rehearing should be granted to eliminate the original purchaser's right to change the delivery terms of a third party offer.

Section 315(b) is silent concerning the original purchaser's ability to alter delivery terms in a third party offer. Instead, by delegating to the Commission authority to issue regulations governing the right of first refusal, that section gives the Commission discretion to develop practical and realistic solutions to such specific problems in the implementation of the right of first refusal. The Commission must, of course, exercise that discretion in light both of section 315(b)'s objective of giving the original purchaser an opportunity to retain access to the gas at market or NGPA maximum lawful prices and of other objectives of the NGPA including the deregulation of most categories of gas subject to section 315(b).

The original purchaser's unilateral right to alter delivery terms is inconsistent with deregulation. It deprives the seller of its ability to negotiate such terms of the contract as delivery and compression, terms which

[31] Texaco.

[32] The commenter concedes that at such time as the seller desired to sell to a non-affiliated third party it would have to give the original purchaser a right of first refusal.

[33] The applications for rehearing, reconsideration and clarification filed before issuance of the March notice did not raise this issue. Nor did the notice request comments on this issue. Accordingly, since the notice permitted comments only on the issues specifically raised in the notice or the previous filings, the commenter may not raise this issue as of right. Nevertheless, the Commission has chosen in its discretion to address this issue, and other new issues raised by commenters, on the merits.

[34] Indicated Producers and Pennzoil *et al.*

[35] These include Oxley, IOGA, Amoco, Tenneco Oil Co. (Tenneco), and Bass.

[36] These include Pacific Lighting Gas Supply Co. and Southern California Gas Co. (Pacific), Columbia, INGAA, Texas Eastern Transmission Corp. (Texas Eastern), Consolidated, Tennessee, and Natural.

have a significant effect on the price it is willing to accept. This prevents market conditions from fully affecting the transaction. Moreover, so long as the Commission allows the original purchaser to alter delivery terms unilaterally, it must provde the seller compensation for its increased costs. If the seller made price concessions to a third party purchaser in return for cheaper delivery terms than those in the contract with the original purchaser, it would be inequitable to allow the original purchaser to take the gas under the original delivery terms but at the price agreed to with the third party. However, compensating the seller for a change in delivery terms would require the Commission to calculate the addition to the contract price necessary to compensate the sellers for its increased costs. This would be inconsistent with deregulation since it would prevent the market from determining the appropriate contract price in light of the delivery terms required by the original purchaser.[37]

Commission calculation of the compensation would also involve serious administrative and practical difficulties. The Commission would face complex legal and factual issues, including what costs to compensate the seller for, whether to grant the seller a fair return in any necessary capital investment, and, if so, what the fair return should be.

In addition, there would be numerous practical difficulties, most arising from the fact that determination of the compensation would inevitably take an extended period of time. The original purchaser would have to determine whether to accept the third party offer without knowing the total price it would ultimately have to pay for the gas. Questions would arise such as (1) whether the original purchaser could withdraw its offer if the Commission required greater compensation to be paid for the change in delivery terms than the original purchaser had expected; and (2) whether sales would begin before the compensation had been determined, and, if so, what price would the original purchaser pay the seller pending final determination of the compensation. In addition, the Commission proceeding to determine the compensation would be costly for both the seller and the original purchaser.[38]

Finally, given recent developments in gas market, original purchasers have little need of the absolute protection provided by the unilateral right to alter delivery terms in a third party offer. The terms of delivery in the third party offer are generally the same as those in the original contract at least with respect to existing wells. This is because the original purchaser's system is probably already connected to the seller's, often at the wellhead, with the result that it is generally taking the gas under the only delivery terms which are practicable in light of the physical configuration of the seller's system.[39] Moreover, even in cases in which the original purchaser cannot take the gas directly under the delivery terms of the third party offer, the original purchaser may be able to negotiate with someone else to deliver the gas to it under the necessary conditions. Some commenters [40] stated that this solution would be available in few cases because of difficulty in finding a willing transporter with the necessary facilities and obtaining regulatory approvals. However, such transactions have become increasingly common in recent years. In addition, the Commission has amended is regulations in order to encourage pipelines to offer transportation services.[41]

For all the reasons discussed above, the Commission, in the exercise of its discretion to establish procedures governing the right of first refusal, chooses not to give the original purchaser a unilateral right to alter the delivery terms of a third party offer. Instead, the Commission believes that a more practical solution to the delivery terms problem is to require the matter to be negotiated between the seller and the original purchaser. Accordingly, where the third party offer contains delivery terms different from those in the original contract, the Commission will permit the original purchaser to make a counteroffer to purchase the gas under the original delivery terms, with an appropriate adjustment in price, but without such counteroffer constituting a rejection of the third party offer for purposes of NGPA section 315(b). The seller, as part of its obligation to give the original purchaser a right of first refusal, must consider the counteroffer. It may, at its option, either accept or reject the counteroffer. If it rejects the counteroffer, it may proceed as if the original purchaser had rejected the offer presented to it.

This procedure is consistent with the objectives of the NGPA. It provides the original purchaser an opportunity to contract for continued access to the gas at market or NGPA maximum lawful prices even if the third party offer contains unacceptable delivery terms. The original purchaser is not forced either to accept an offer with unacceptable delivery terms or lose the gas. At the same time, however, market forces are allowed to determine the price of deregulated gas and the practical difficulties of giving the original purchaser a unilateral right to alter delivery terms are avoided.

3. Termination of Section 315(b) Obligations (§ 277.204(b)(3))

The final rule releases a seller from its section 315(b) obligations to the original purchaser once the seller has actually sold the natural gas to a third party purchaser under terms rejected by the original purchaser.[42] Some applicants

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[37] Approximately half the commenters *supporting* the original purchaser's right to alter delivery terms (Pacific, Texas Eastern, and Tennessee) concede that it is inappropriate for the Commission to compensate the seller for increased costs in a deregulated environment. These commenters suggest that the Commission simply not provide the sellers any compensation for increased costs when the original purchaser alters the delivery terms in a third party offer. But this would be inequitable for the reasons stated above.

[38] Thus far the Commission has never had to confront these difficulties since no seller has ever applied to the Commission for compensation pursuant to § 277.206(d). However, this does not necessarily mean that no seller ever will. Nor does it seem wise for the Commission to include in its regulations a right for sellers to obtain compensation based on the assumption no seller will ever exercise that right. Futhermore, the fact no seller has ever requested compensation suggests that original purchasers rarely exercise the right to alter delivery terms and thus have little need for it. If original purchasers had been regularly exercising the right to alter delivery terms, one would expect that some seller would have applied to the Commission for increased compensation asserting that the change caused it increased costs.

[39] See also the discussion in footnote 38, *supra*.

[40] Columbia and Consolidated.

[41] Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol, 50 FR 42.408 (Oct. 18, 1985) (Order No. 432); 50 FR 42.217 (Dec. 23, 1985) (Order Granting in Part and Denying in Part Applications for Rehearing, Denying Petitions for Stay, and Granting Clarification) (Order No. 436–A). Some commenters, including Texas Eastern and Consolidated, note that the original purchaser may have invested in facilities to receive gas under the original delivery terms in reliance upon its right to continued access to the gas. They state that taking the gas under changed delivery terms could require new or additional facilities, increasing costs to their customers. The Commission does not believe that such a situation is likely to arise in a significant number of cases. For the reasons stated above, in most cases either the third party offer will contain the same delivery terms or the original purchaser will be able to arrange for another pipeline to transport the gas to it. In addition, the original purchaser would get the benefit of the price concessions presumably made to the third party offeror in return for more favorable delivery terms.

[42] This means that if the original purchaser rejects an offer by a third party but no contract is actually entered into between the seller and that third party, the seller cannot sell to another third party until it has given the original purchaser an opportunity to accept or reject that third party's offer.

for rehearing [43] believe that a seller's obligations under section 315(b) should terminate at the time the original purchaser rejects the offer substantially accepted in principle. They argue that the actual sale need not take place because there should be no concern about collusion between the seller and the third party subsequent to rejection of the offer. They add that the provision requiring arms-length transactions should avoid such collusion. These applicants, therefore, believe that the seller's section 315(b) obligations should cease once a third party offer has been rejected. The only commenter to address this issue [44] opposes the applicant's contention.

In rejecting the same argument in the final rule, the Commission stated that it intended to discourage sellers from making a frivolous offer substantially accepted in principle by a third party. A seller might otherwise present the original purchaser with an unacceptable offer simply to divest itself of an unwanted customer. This would be an abuse of section 315(b) which is intended to continue service on the basis of good faith bargaining in the marketplace. The Commission explained that § 277.204(b)(3) is necessary to:

> Avoid the presentation to the original purchaser of offers which, while "substantially accepted in principle by a third party," were never intended to apply to an actual sale of natural gas.[45]

Contrary to applicants' contention, the Commission believes that requiring an actual sale of gas to the third party more effectively prevents collusion and guarantees that the seller and third party purchaser seriously intended the written offer and written acceptance to result in a contract binding on the seller than does a mere requirement of an arms-length transaction. The former requirement is a largely self-implementing means of accomplishing this purpose. The latter requirement, on the other hand, is more difficult to enforce because determining if a transaction with a third party was arms-length is harder than determining if a sale to that party actually occurred.

4. Interim Protective Sales (§ 277.207)

The final rule provides that deliveries required by § 277.205(a) to be continued after expiration of a contract until rejection of a bona fide offer shall be made under the terms and conditions in effect on the last day of the expired contract. Citing NGPA legislative history, some applicants for rehearing [46] argue that the Commission is unlawfully limiting the price payable after the expiration of the contract to a price less than the otherwise applicable maximum lawful or deregulated price.[47]

Applicants overlook the fact that section 315(b) is intended to protect the original purchaser's continued access to natural gas previously committed or dedicated to it while giving the seller an opportunity to market such gas under a new contract up to NGPA or deregulated prices. By avoiding abrupt changes in price at the time the contract expires, the final rule furthers the statutory purpose of continuing the availability of gas supplies. Moreover, the requirement that continued deliveries be at the price provided for in the expired contract imposes only a small burden on the seller. The seller can terminate its obligation to make such deliveries within twenty days by simply making a bona fide offer since the original purchaser must either accept or reject that offer within twenty days of its receipt.

Finally, nothing in the NGPA prohibits the Commission from requiring that deliveries be continued at the contract price until rejection of a bona fide offer even though the contract price may be less than the applicable maximum lawful or deregulated price. On the contrary, by removing certain gas from NGA sales jurisdiction, Congress eliminated the option available to sellers under the NGA to increase the price of gas sold after a contract expired to a higher area or national rate without contractual authorization. This increase was accomplished by filing a notice with the Commission under section 4(d) of the NGA.[48] In eliminating NGA sales jurisdiction, Congress subjected gas covered by section 315(b) to the general NGPA requirement of contractual authorization to collect NGPA prices. The cited legislative history only means that, after a fixed price contract expires, a seller could collect and the purchaser could pay no more than the maximum lawful price only if the parties contractually authorize such collection.

One commenter [49] argues that, since in today's market the price under the expired contract is often higher than the current market price, the final rule shields sellers from current market conditions and keeps the price artifically high. Accordingly, the commenter requests that the Commission permit a purchaser to cease purchasing the gas or, if its weighted average cost of gas (WACOG) in its current Purchased Gas Adjustment filing is less than the price in the expired contract, to make any continued purchases under § 277.205(a) at the WACOG.[50]

The Commission believes that the commenter's requested change in the final rule is unnecessary. Purchasers already may cease taking the gas by waiving their right to a bona fide offer. The final rule requires sellers to make bona fide offers no later than twenty days before expiration of the existing contract or after an NGPA well determination.[51] Thus, the final rule should not cause purchasers to be locked into higher than market prices for a significant period of time.

C. Waiver of Section 315(b) Rights (18 CFR 277.209)

The final rule provides that the original purchaser may waive its section 315(b) rights, but requires that such waivers be made not more than one year before contract expiration. Some commenters [52] contend that the prohibition on waivers more than one year before contract expiration should be eliminated. The Commission agrees.

The Commission is currently seeking to encourage the renegotiation of gas supply contracts to bring gas supplies and prices into line with market clearing

[43] Indicated Producers.

[44] Tennessee.

[45] *See* Bona Fide Offers; Right of First Refusal, 45 FR 53,116, 53,119 (Aug. 11, 1980) (Order No. 95) (codified at 18 CFR 277.201–10 (1985)).

[46] Pennzoil *et al.*

[47] In support of this contention, applicants cite part of Congressman Dingell's statement during NGPA debate that "Once the existing contract no longer limits the price (of gas sold under sections 104 or 106) . . . , the producer could charge and the purchaser could pay any amount up to the maximum lawful price . . . which would be based upon the just and reasonable rate." 124 Cong. Rec. 38,366 (1978). Applicants did not cite the limiting phrase "which would be based upon the just and reasonable rate." The limiting phrase suggests that the gas could not qualify for NGPA incentive prices and that the Dingell statement has no bearing on gas covered by section 315(b). The producer is not limited to receiving a just and reasonable rate for that gas. *Id.*

[48] Pennzoil's reliance on the NGA case of Phillips v. FERC, 586 F.2d (5th Cir. 1978), in arguing that the Commission lacks authority under the NGPA to impose the requirement here at issue, is misplaced. That case held that a producer may file a unilateral rate increase, where not under contract, up to a higher small producer rate under section 4(d) of the NGA. It is irrelevant to the question of a producer's rights with respect to gas removed from NGA jurisdiction.

[49] Tennessee.

[50] The commenter also proposes to give purchasers under existing contracts which remain subject to the Commission's NGA jurisdiction a similar right. That proposal, however, is beyond the scope of this rulemaking and will not be considered here.

[51] If a seller refuses to make a bona fide offer in spite of this requirement, the purchaser should bring this situation to the Commission's attention.

[52] Bass, Natural, INGAA, and Williams Exploration Co.

levels.[53] As one commenter [54] observed, eliminating the one-year limit should facilitate the renegotiation process by allowing purchasers to use waiver of the section 315(b) rights as a bargaining card for price or rate of take concessions from sellers regardless of the expiration date of the contract. If the purchaser believes that his interests would be better served by waiving his section 315(b) rights in return for such considerations from the seller, the Commission sees no reason why the purchaser should be prohibited from doing so.

D. Implied Contracts

One applicant[55] requests that the Commission clarify that the requirement that bona fide offers be made not more than eighteen months before expiration of a contract (18 CFR 277.205(b)(3)) does not apply to "implied contracts."[56] Implied contracts for purposes of Part 277 arise upon expiration of a contract for the sale of gas subject to the NGA. Part 277 treats the seller's continuing service obligation under the NGA in such a situation as an implied contract to sell the gas to the original purchaser (18 CFR 277.203(g)). Under § 277.203 (a) and (h)(1) such implied contracts expire when the gas is removed from NGA jurisdiction by a jurisdictional agency determination that it is section 102(c), 103(c), or 107(c)(1)–(4) gas.[57]

The applicant contends that applying the 18-month requirement to implied contracts would seriously impede the seller's ability to sell the gas to a third party. The applicant alleges that a seller generally could never make a bona fide offer with any assurance that it would cover all the gas subject to the implied contract, since the possibility would always exist that a new well would be drilled and receive a determination removing its production from NGA jurisdiction more than eighteen months after the bona fide offer had been made. That would mean that the implied contract with respect to that gas had expired more than eighteen months after the making of the bona fide offer. Accordingly, the bona fide offer could not cover that gas. The applicant contends that consequently a seller could never give a third party clear title to all gas to be produced in the future from acreage subject to the implied contract. The applicant concludes that the 18-month requirement would mean that the seller would have to make bona fide offers essentially on a well-by-well basis. The applicant requests that the Commission deal with this problem by (1) holding that the 18-month requirement applies only to written contracts and not implied contracts and (2) holding that a single bona fide offer may be made which will cover all wells for which determinations have or will be made in the acreage covered by the implied contract regardless of when those determinations are made.

The Commission's request for additional comments expressly requested comments on this issue. Most commenters agreed that the 18-month requirement in question should not apply to implied contracts.[58] The Commission also agrees. The requirement that bona fide offers be made no more than eighteen months before expiration of the contract was added in order to avoid the possibility that without such a provision "the purchaser might find itself in the position of having to consider a bona fide offer years before the contract expires."[59] Also, there was a fear that years could elapse between the making of a bone fide offer and expiration of the right of first refusal.

These concerns have less, if any, force in the context of an implied contract. Here the actual contract between the parties has already expired. Accordingly, it makes sense that negotiations for a new contract to govern the relationship between the parties should take place at any time after expiration of the old contract. Since contracts often cover undrilled as well as drilled acreage, there is no reason why those negotiations, including the making of a bona fide offer, should occur only within a particular amount of time before jurisdictional agency determinations for new wells. Given this fact, the Commission agrees that the 18-month requirement should be inapplicable to implied contracts so as to simplify the parties' task in complying with section 315(b) and negotiating a new contract. This will permit the seller to make one bona fide offer that will cover all gas subject to the implied contract which is or may in the future be subject to section 315(b), and thus to negotiate one contract covering all the gas. The difficulty of having to make bona fide offers essentially on a well-by-well basis will thus be avoided.[60]

Accordingly, the Commission is amending § 277.205(b)(3) to make clear that the 18-month requirement does not apply to implied contracts.

E. Voluntary Releases

A number of contracts contain "market out" or similar clauses under which a purchaser may release the seller from its obligation to deliver all or a portion of the gas. One applicant [61] requests that the Commission clarify that a purchaser's exercise of its rights under such a clause constitutes an expiration or termination of the contract for purposes of triggering the purchaser's rights under section 315(b). The applicant expresses the concern that otherwise a seller could seek an alternate purchaser only for the period between the release and final expiration of the contract since at that time the original purchaser would be entitled to its rights under section 315(b). The Commission expressly requested comments on this issue in its March notice.

The Commission cannot state that a purchaser's exercise of its rights under a "market out" clause necessarily constitutes a termination of the contract. In some cases a purchaser may release the seller from its obligation to deliver gas only for a part of the remaining term of the contract and then later recommence taking gas under the contract. In such a case the purchaser's exercise of its rights under a "market out" clause clearly does not terminate the contract.

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[53] Statement of Policy and Interpretative Rule, 50 FR 16.076 (Apr. 24, 1985) (to be codified at 18 CFR 2.76). Regulation of Natural Gas Pipelines After Partial Wellhead Decontrol: 50 FR 42.408, 42.464 (Oct. 18, 1985) (Order No. 436); 50 FR 42.217 (Dec. 23, 1985) (Order Granting in Part and Denying in Part Applications for Rehearing, Denying Petitions for Stay, and Granting Clarification: Order No. 436–A).

[54] Natural.

[55] Bass.

[56] Bass also requested clarification that the prohibition on waiver of section 315(b) rights more than one year before contract expiration does not apply to implied contracts. Since the Commission has decided to eliminate the prohibition entirely, it need not address that request.

[57] The gas must of course have been committed or dedicated to interstate commerce on November 8, 1978 (§ 277.203(a)(1)).

[58] The only exception was Tennessee. Tennessee claims that, even in the context of an implied contract, the 18-month requirement is necessary to ensure that the purchaser will not have to decide whether it wants to continue taking the gas years before it knows what its needs are.

[59] Bona Fide Offers; Right of First Refusal, 45 FR 53.116 (Aug. 11, 1980) (Order No. 95) (codified at 18 CFR 277.201–10 (1985).

[60] Similarly, before expiration of an existing contract the seller may make one bona fide offer covering all the gas subject to the contract, including any not yet removed from NGA Jurisdiction. The Commission made this clear in the Notice of Proposed Rulemaking before issuance of Order No. 95. 44 FR 66.208 (Nov. 19, 1979). Again, this avoids the necessity of seriatum, well-by-well bona fide offers. The addition to the rule of the 18-month requirement by Order No. 95 did not affect the seller's right to make a bona fide offer covering all gas subject to a contract. That requirement was intended only to affect the timing of a bona fide offers, not to limit the scope of timely bona fide offers.

[61] Bass

However, where the purchaser does exercise its rights under a "market out" clause so as to release the seller from its obligation to deliver any gas for the entire remaining term of the contract, the Commission believes that that action must be treated as a termination of the contract for purposes of triggering the purchaser's rights under section 315(b). The contract is effectively at an end since the purchaser no longer has any right to take gas under it. Allowing the seller to give the purchaser its section 315(b) rights immediately upon its exercise of the " market out" clause will enable the seller to find another buyer for the gas unencumbered by the need to give the purchaser its section 315(b) rights upon expiration of the term of the original contract.

Some commenters [62] contend that a purchaser's exercise of a "market out" clause should be treated as a termination of the contract only if the contract expressly states that exercise of the clause would terminate the contract. The commenters state that this would avoid any confusion as to whether the contract has terminated. The Commission believes that such an express contractual provision is unnecessary. The purchaser's loss of any further right to take gas under the contract is the crucial fact causing the contract to be terminated. In most cases, this fact should be clear regardless of any express contractual language concerning whether the purchaser's exercise of a "market out" clause terminates the contract.[63]

In the March notice, the Commission requested comment on whether the purchaser's exercise of its rights under a "market out" clause so as to release the seller from his obligation to deliver any gas for the remaining term of the contract should be treated as a waiver by the purchaser of its section 315(b) rights. The Commission asked whether it makes sense to grant the purchaser rights designed to protect its continued access to gas if the purchaser's exercise of the "market out" clause represents a determination that it no longer requires the gas. A number of commenters [64] oppose this proposal. They state that a purchaser's exercise of a "market out" clause does not necessarily represent a determination that it does not require the gas in question. Rather, the purchaser may exercise the clause because the gas is unmarketable at the price provided by the contract, but may desire to continue purchasing the gas at a renegotiated lower price. The commenters also contend that allowing implied waivers based on a purchaser's exercise of a "market out" clause without an express written waiver could lead to confusion as to when a purchaser's section 315(b) rights have been waived.

The Commission has determined that the purchaser's exercise of a "market out" clause should not be treated as an implied waiver of its section 315(b) rights. Apart from the concerns expressed by the commenters, the Commission believes that such treatment would be inconsistent with section 315(b). Congress provided that the right of first refusal is triggered by "the expiration or termination of any contract" for the sale of gas subject to the section. Expiration is the expiration of a contract in accordance with its express provisions. Termination, on the other hand, is the ending of a contract by either party pursuant to a power contained in the contract. Section 315(b) does not limit the triggering of the right of first refusal to termination by the seller, but also provides for the triggering of that right upon termination by the purchaser. Thus, to hold that the purchaser's termination of a contract through exercise of a "market out" clause automatically waives the purchaser's section 315(b) rights would be inconsistent with section 315(b) which requires that a purchaser be granted a right of first refusal upon its termination of the contract.

One commenter [65] observes that under the terms of some "market out" clauses a purchaser may stop taking gas but retain a right to again take gas during the remaining term of the contract. The commenter states that, if the purchaser never exercises the retained right, it should be treated as having waived its section 315(b) rights so that when the contract expires no bona fide offer or right of first refusal need be given. The Commission disagrees. For the reasons stated above, whenever the purchaser finally loses its right to take any more gas under the contract, whether through termination of the contract by exercise of a "market out" clause or expiration of the contract, it must be accorded its section 315(b) rights.[66]

F. Record-Retention Requirements (§ 277.210)

The final rule imposes a record-retention provision of unlimited duration on first sellers to retain copies of all bona fide offers to third parties. Also, purchasers must retain all documents created in the ordinary course of business relating to Part 277 regulations.

Applicants[67] request that the record retention requirement be limited to three years. The Commission agrees. An unlimited record-retention requirement is unnecessary. There should be no need to retain permanently the records relating to the sale of gas which will usually be sold to third parties under Part 277 within a relatively short time. Accordingly, § 277.210 is amended to restrict the record-retention requirement to a period of three years from the date of each relevant document. This amendment requires a conforming change to the Commission's schedule of records and periods of retention at § 225.3, Item 65(d).

G. New Tight Formation Gas and Section 315(b).

Paragraph (1) of section 315(b) provides that that section applies to new natural gas under section 102(c), gas from new onshore, production wells under section 103(c), and high cost gas under section 107(c)(1)–(4) which were committed or dedicated to interstate commerce on November 8, 1978. Paragraph (1) does not make section 315(b) applicable to section 107(c)(5) gas, including new tight formation gas. However, in the recent rulemaking implementing the January 1, 1985, deregulation of section 102(c) and some section 103 gas (as well as other types of gas),[68] the Commission observed that a

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[62] Natural, PG&E and Texas Eastern.

[63] In some cases, a purchaser may exercise a "market out" clause so as to give up permanently the right to take some, but not all, of the gas subject to the contract. When this occurs, the contract is terminated for purposes of triggering section 315(b) as to the gas the purchaser can no longer take but not as to the remaining gas which it may still take.

[64] INGAA, Natural, PG&E, Pacific, Columbia, Consolidated, and Tennessee.

[65] Amoco.

[66] Amoco also states that some contracts contain clauses allowing the seller to terminate the contract if the purchaser exercises a "market out" clause. The commenter suggests that the purchaser's agreement to inclusion of such a clause in the contract should be treated as a waiver of its section 315(b) rights if it exercised the "market out" clause. The Commission does not believe waiver should be implied in such circumstances. If the contract was entered into before enactment of the NGPA, the purchaser should not be construed as having wavied a right it did not even know it had. If the contract was entered into after enactment of the NGPA, the purchaser may have agreed to such a clause in reliance on its being entitled to a bona fide offer and right of first refusal under section 315(b). The Commission believes that section 315(b) rights should be waived only through an express written waiver as provided by § 277.209.

[67] Indicated Producers.

[68] Deregulation and Other Pricing Changes on January 1, 1985, Under the Natural Gas Policy Act, 49 FR 46,874 (Nov. 29 1984) (Order No. 406); 49 FR 50,637 (Dec. 31, 1984) (Order denying rehearing in part, granting rehearing in part, denying stay and making technical corrections); 50 FR 7333 (Feb. 22, 1985) (Order denying applications for rehearing and clarifying previous order).

determination that gas is new tight formation gas includes gas which qualifies either as section 102 or section 103(c) gas. This is because in order to qualify as new tight formation gas a producer must file the same information, in addition to other information, that would be filed to qualify as section 102 or 103(c) gas. 18 CFR 274.205(e)(1)(i) (A) and (B) and 271.703(b)(2) (1985). The Commission concluded that in order to qualify as new tight formation gas under section 107(c)(5), the gas must meet section 102 or section 103 qualification requirements as a threshold to obtaining a section 107(c)(5) determination. This meant that new tight formation gas was price-deregulated since the applications for determination of such gas as new tight formation gas contained the data and met the requirements for section 102(c) or the appropriate section 103 gas.

In its March notice, the Commission sought comment as to whether the same principle should apply in the context of section 315(b). All but one of the commenters addressing the issue stated that it should.[69] The Commission agrees. Consistent with the Order No. 406, when applications for determinations that gas is new tight formation gas contain the data and meet the requirements for section 102(c) or 103(c), that gas must be considered section 102(c) or 103(c) gas for purposes of section 315(b) and the original purchaser must be given a bona fide offer and right of first refusal.

H. Other Issues

Commenters have raised three other issues in response to the March notice which the Commission briefly addresses. One commenter[70] requests that the Commission modify the final rule to prohibit clauses in third party offers which the original purchaser could not legally accept. It states that otherwise a third party offer from an intrastate pipeline might, for example, include a clause restricting sales of the gas to intrastate commerce. It further notes that inclusion in third party offers of clauses which the original purchaser could not legally accept would defeat Congress's purpose in enacting section 315(b) of providing a mechanism protecting the purchaser's continued access to gas. The Commission believes that this problem is best dealt with on a case-by-case basis rather than by inclusion in the regulations of a new provision prohibiting such clauses. The Commission is not aware of any instance in which an original purchaser has been unable to accept a third party offer because of a clause which could not legally be accepted under the NGA or the NGPA. If an original purchaser believes a third party offer which it would otherwise desire to accept contains such a clause it may file a complaint with the Commission.

Another commenter[71] raises the issue of how intracorporate transfers of gas from a company's production division to its pipeline division, which the Supreme Court has held are first sales within the meaning of the NGPA,[72] should be treated under section 315(b). It notes that the production division's giving the pipeline division a bona fide offer and right of first refusal when the company has decided to market the gas elsewhere would be a useless exercise. Instead, it suggests that the Commission require that the pipeline file a statement with its Purchased Gas Adjustment filing stating that the company has determined the pipeline no longer requires the gas. The Commission agrees that it makes no sense for a company to give itself a bona fide offer and right of first refusal. For that reason, the Commission does not believe that Congress intended section 315(b) to apply in the context of intracorporate transfers. Accordingly, no bona fide offer or right of first refusal need be given upon termination of intracorporate transfers, nor need any statement be filed with the pipeline's PGA clause.

Finally, one commenter[73] suggests that the Commission provide in the final rule for penalties for noncompliance with section 315(b). The Commission already has ample authority to enforce the requirements of section 315(b) pursuant to section 504 of the NGPA and sees no need to specify penalties for violations of section 315(b). Such penalties may be determined on a case-by-case basis.

IV. Paperwork Reduction Act Statement and Effective Date

The changes in information collection provisions in this rule that the Commission now makes on rehearing will be submitted to the Office of Management and Budget (OMB) for its approval under the Paperwork Reduction Act, 44 U.S.C. 3501–3520 (1982), and OMB's regulations, 5 CFR Part 1320 (1985). Interested persons can obtain information concerning the information collection provisions by contacting the Federal Energy Regulatory Commission, 825 North Capitol St., NE., Washington, D.C. 20426 (Attention: Richard Howe, Jr., (202) 357-8308). Comments on the information collection provisions can be sent to the Office of Information and Regulatory Affairs of OMB (Attention: Desk Officer for the Federal Energy Regulatory Commission).

This rule will become effective May 21, 1986. If OMB's approval has not been received by this effective date, the Commission will issue a notice temporarily suspending the effective date.

List of Subjects

18 CFR Part 225

Preservation of records of natural gas companies.

18 CFR Part 277

Continental shelf; natural gas; wage and price controls.

For the Reasons Above, the Commission Orders

(1) The Applications for Rehearing, Petition for Reconsideration, and Motion for Clarification are denied, except as granted consistent with the amendments to the rule below and with the discussion in the preamble; and

(2) Parts 225 and 277 of Chapter I, Title 18, of the Code of Federal Regulations, are amended as set forth below.

By the Commission.

Kenenth F. Plumb,

Secretary.

PART 225—[AMENDED]

1. The authority citation for Part 225 is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); Executive Order 12,009, 3 CFR 142 (1978); Natural Gas Act, 15 U.S.C. 717–717w (1982); Natural Gas Policy Act, 15 U.S.C. 3301–3432 (1982); Federal Power Act, 16 U.S.C. 792–828c (1982).

2. Section 225.3, in the table "Schedule of Records and Periods of Retention", Item 65(d), is amended by removing the words "not specified by regulation" under the column "Retention period", and adding, in their place, the words "3 years" to read as follows:

§ 225.3 Schedule of Records and Periods of Retention

* * * * *

[69] The exception is Indicated Producers. They rely on the fact that section 315(b) does not include section 107(c)(5) gas in the list of categories of gas to which section 315(b) applies.

[70] Texas Eastern.

[71] Consolidated.

[72] Public Service Comm'n v. Mid-Louisiana Co., 463 U.S. 319 (1983).

[73] Tennessee.

Description	Retention period
* * * * *	
65. Reports to Federal and State regulatory commissions:	
* * * * *	
(d) Records required to be retained under § 277.210 of this chapter, relating to the Natural Gas Policy Act of 1978.	3 years.
* * * * *	

PART 277—[AMENDED]

3. The authority citation for Part 277 is revised to read as follows:

Authority: Department of Energy Organization Act, 42 U.S.C. 7101–7352 (1982); Executive Order 12,009, 3 CFR 142 (1978); Natural Gas Policy Act, 15 U.S.C. 3301–3432 (1982); Natural Gas Act, 15 U.S.C. 717–717w (1982), unless otherwise noted.

§ 277.205 [Amended]

4. Section 277.205(b)(3) is amended by removing the words "subject contract" and adding, in their place, the words "subject contract (other than an implied contract)".

§ 277.206 [Amended]

5. Section 277.206 is amended by revising paragraph (d) to read as follows:

* * * * *

(d) If the offer provides for delivery of the natural gas to a different point or under different physical conditions than specified in the subject contract, the original purchaser may make a written counteroffer to purchase the gas under the delivery terms specified in the subject contract with such other changes in the terms of the offer presented by the seller as the original purchaser deems appropriate. Within 20 days of receipt of the counteroffer, the seller must inform the original purchaser in writing of its decision either to accept or reject the counteroffer. If the seller rejects the counteroffer, it may then proceed as if the original purchaser had rejected the offer presented it by the seller.

§ 277.209 [Amended]

6. Section 277.209(a) is amended by removing the last sentence.

7. Section 277.210 is revised to read as follows:

§ 277.210 Recordkeeping Requirements.

A seller of natural gas which is subject to this subpart must retain copies of all bona fide offers made under § 277.205 and offers to the original purchasers to satisfy the original purchaser's right of first refusal under § 277.206 for a three-year period from the date of the offer. The sellers and purchasers of natural gas which is subject to this subpart must also retain all other documents created in the ordinary course of business which relate to this subpart for a three-year period from the date of the document.

[FR Doc. 86–4986 Filed 3–6–86; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Part 404

[Regulation No. 4]

Federal Old-Age, Survivors, and Disability Insurance; Revised Medical Criteria for the Determination of Disability

Correction

In FR Doc. 85–28672, beginning on page 50068, in the issue of Friday, December 6, 1985, which was corrected on page 5989 in the issue of Wednesday, February 19, 1986, make the following additional corrections in Appendix 1 to Subpart P, Part 404:

1. On page 50093, second column, last paragraph, sixth line, "test" should read "rest".

2. On page 50097, third column, eighteenth line, "there" should read "three".

3. On page 50104, second column, seventh line from the bottom, "hemozygous" should read "homozygous".

4. On the same page, third column, thirteenth line from the bottom, the first "of" should read "or".

5. On page 50105, first column, second line from the bottom, "hyertonic" should read "hypertonic".

6. On page 50106, second column, last line, "test" should read "text".

BILLING CODE 1505–01–M

Food and Drug Administration

21 CFR Parts 74, 81, and 82

[Docket Nos. 84N–0319 and 76N–0366]

FD&C Yellow No. 5 and Its Lakes; Postponement of Closing Date, Provisional Listing, and Continued Stay of Effectiveness

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is postponing the closing date for the provisional listing of FD&C Yellow No. 5 for use in coloring cosmetics generally and externally applied drugs and of its lakes for use in coloring food and ingested drugs. FDA is establishing a new closing date for FD&C Yellow No. 5 to give the agency time to complete its evaluation of the objections that it received in response to the final rule on the use of FD&C Yellow No. 5 that FDA published in the **Federal Register** of September 4, 1985 (50 FR 35774). The regulations that permanently list FD&C Yellow No. 5 and that remove it from the provisional list are stayed until May 6, 1986.

DATES: Effective March 7, 1986, the new closing date for FD&C Yellow No. 5 will be May 6, 1986. The effective date of the final rule published September 4, 1985, is stayed pending final FDA action on the objections that it received.

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

SUPPLEMENTARY INFORMATION: FDA established the current closing date of March 7, 1986, for the provisional listing of FD&C Yellow No. 5 in a regulation published in the **Federal Register** of January 6, 1986 (51 FR 375). The agency established the March 7, 1986, closing date for FD&C Yellow No. 5 to provide time for its evaluation of three objections to the final rule on the use of this color additive, which FDA published on September 4, 1985.

Previously, after review and evaluation of the data relevant to the petition to list FD&C Yellow No. 5 for use in externally applied drugs and in cosmetics generally, the agency had concluded that FD&C Yellow No. 5 was safe for these uses. Therefore, FDA issued a final rule in the **Federal Register** of September 4, 1985 (50 FR 35774), that would permanently list FD&C Yellow No. 5 for those uses and would remove the stay on the use of FD&C Yellow No. 5 in external cosmetics. FDA stated that the final rule would become effective on October 7, 1985, unless stayed by the filing of proper objections.

FDA received three letters stating objections to this final rule. Because of the objections, under section 701(e)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)(2)), the effect of this final rule is stayed until the agency can rule upon the objections. FDA expects that it will need only a small amount of additional time to complete its evaluation of the objections. Therefore, FDA concludes that only a brief postponement is necessary at this time. The regulation set forth below will postpone the March 7, 1986, closing date

for the provisional listing of FD&C Yellow No. 5 until May 6, 1986.

Because the current closing date expires on March 7, 1986, FDA has concluded that the use of notice and public procedure on this regulation is impracticable. Thus, good cause exists for issuing the postponement as a final rule. Moreover, this action is consistent with the protection of the public health because the agency has previously concluded that FD&C Yellow No. 5 is safe for its intended use under the Color Additive Amendments of 1960. This regulation will permit the uninterrupted use of the color additive until May 6, 1986. To prevent any interruption in the provisional listing of FD&C Yellow No. 5 and in accordance with 5 U.S.C. 553(d)(1) and (3), this regulation is being made effective on March 7, 1986. Any person who wishes to comment on the regulation may do so in accordance with 21 CFR 10.40(e)(1).

List of Subjects

21 CFR Part 74

Color additive, Cosmetics, Drugs, Medical devices.

21 CFR Part 81

Color additives, Cosmetics, Drugs.

21 CFR Part 82

Color additives, Cosmetics, Drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, Parts 74, 81, and 82 are amended as follows:

PART 74—LISTING OF COLOR ADDITIVES SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 74 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); 21 CFR 5.10.

§ 74.1705 [Stayed]

2. The modifications of § 74.1705 *FD&C Yellow No. 5* included in the September 4, 1985, final rule continue to be stayed.

§ 74.2705 [Stayed]

3. Section 74.2705 *FD&C Yellow No. 5* continues to be stayed.

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

4. The authority citation for 21 CFR Part 81 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); Title II, Pub. L. 86–618; sec. 203, 74 Stat. 404–407 (21 U.S.C. 376, note); 21 CFR 5.10.

§ 81.1 [Amended]

5. Section 81.1 *Provisional list of color additives* is amended in paragraph (a) by revising the closing date for "FD&C Yellow No. 5" to read "May 6, 1986."

§ 81.27 [Amended]

6. Section 81.27 *Conditions of provisional listing* is amended in paragraph (d) by revising the closing date for "FD&C Yellow No. 5" to read "May 6, 1986."

PART 82—LISTING OF CERTIFIED PROVISIONALLY LISTED COLORS AND SPECIFICATIONS

7. The authority citation for 21 CFR Part 82 continues to read as follows:

Authority: Secs. 701, 706, 52 Stat. 1055–1056 as amended, 74 Stat. 399–407 as amended (21 U.S.C. 371, 376); 21 CFR 5.10.

§ 82.705 [Stayed]

8. The modifications of § 82.705 *FD&C Yellow No. 5* included in the September 4, 1985 final rule continue to be stayed.

Dated: February 20, 1986.

Joseph P. Hile,

Acting Commissioner of Food and Drugs.

[FR Doc. 86–4837 Filed 3–6–86; 8:45 am]

BILLING CODE 4160–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OSWER FRL–2977–8]

40 CFR Part 300

National Oil and Hazardous Substances Contingency Plan; National Priorities List Update

AGENCY: Environmental Protection Agency.

ACTION: Notice of the deletion of sites from the National Priorities List.

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of eight sites from the National Priorities List (NPL). The NPL is Appendix B to the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA).

EFFECTIVE DATE: March 7, 1986.

FOR FURTHER INFORMATION CONTACT: Russel H. Wyer, Director, Hazardous Site Control Division, Office of Emergency and Remedial Response (WH–548E), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Phone (800) 424–9346 (or 382–3000 in the Washington, DC, metropolitan area).

SUPPLEMENTARY INFORMATION: The EPA identifies sites that appear to present a significant risk to public health, welfare or the environment and maintains the NPL as the list of those sites. Sites on the NPL may be the subject of Hazardous Substance Response Trust Fund (Fund) financed remedial actions. Any site deleted from the NPL remains eligible for Fund-financed remedial actions in the unlikely event that conditions at the site warrant such action. Section 300.66(c)(8) of the NCP states that Fund-financed actions may be taken at sites deleted from the NPL.

The eight sites EPA deletes from the NPL are:

1. Enterprise Avenue, Philadelphia, Pennsylvania
2. Friedman Property (once listed as Upper Freehold), Upper Freehold, New Jersey
3. Lehigh Electric and Engineering Co., Old Forge Borough, Pennsylvania
4. Morris Arsenic Dump, Morris, Minnesota
5. PCB Spills, 210 miles of roads, North Carolina
6. PCB Warehouse, Saipan, Commonwealth of the Northern Mariana Islands
7. PCB Wastes, Trust Territory of the Pacific Islands
8. Taputimu Farm, Island of Tutuila, American Samoa

An explanation of the criteria for deleting sites from the NPL was presented in section II of the December 31, 1985 Notice of Intent to Delete (50 FR 53448). A description of each of the eight sites, and how they met the criteria for deletion, was presented in section IV of that notice.

The closing date for comments on the Notice of Intent to Delete was January 30, 1986. Three comments were received; the commentors concurred with EPA's determination that the sites pose no significant threat to public health and the environment and were supportive of the decision to delete them from the NPL.

One commentor requested that sampling wells at the Morris Arsenic site be properly closed before deletion. Closure operations on these test locations will begin as soon as weather conditions permit.

Another commentor stated he does not take responsibility for any future action at the Morris Arsenic site. Site

deletions from the NPL do not effect responsible party liability or impede Agency efforts to recover costs associated with response efforts.

List of Subjects in 40 CFR Part 300

Hazardous waste.

PART 300—[AMENDED]

1. The authority citation for Part 300 continues to read as follows:

Authority: Section 105, Pub. L. 96–510, 94 Stat. 2764, 42 U.S.C. 9605 and sec. 311(c)(2), Pub. L. 92–500 as amended, 86 Stat. 865, 33 U.S.C. 1321(c)(2); E.O. 12316, 46 FR 42237; E.O. 11735, 38 FR 21243.

Appendix B [Amended]

2. The NPL, Part 300; Appendix B, is amended as follows:

In Group 2 remove:
PCB Wastes, Trust Territory of the Pacific Islands
Taputimu Farm, Island of Tutuila, American Samoa
PCB Spills, 210 miles of roads, North Carolina
PCB Warehouse Saipan, Commonwealth of the Northern Mariana Islands
In Group 6 remove:
Enterprise Avenue, Philadelphia, Pennsylvania
In Group 7 remove:
Morris Arsenic Dump, Morris, Minnesota
In Group 9 remove:
Friedman Property, Upper Freehold, New Jersey
In Group 11 remove:
Lehigh Electric and Engineering Co., Old Forge Borough, Pennsylvania

The NPL will reflect these deletions in the next final update.

Dated: February 21, 1986.

J. Winston Porter,

Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 86–5003 Filed 3–6–86; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

42 CFR Parts 53 and 124

Grants for Hospital Construction and Modernization; Federal Right of Recovery and Waiver of Recovery

AGENCY: Public Health Service, HHS.

ACTION: Final rule.

SUMMARY: As a result of recent amendments to sections 609 and 1622 of the Public Health Service Act, the Public Health Service amends its regulations to provide for (1) written notification to the Secretary when a grant-assisted hospital is sold or no longer used as a health facility eligible for a grant under Title VI or XVI of the Act, (2) waiver of the Government's right of recovery under certain circumstances, and (3) methods of calculating interest on recovery amounts.

DATE: These regulations are effective on March 7, 1986.

ADDRESS: Richard R. Ashbaugh, Assistant Surgeon General, Associate Director for Health Facilities, Bureau of Health Maintenance Organizations and Resources Development, 5600 Fishers Lane, Room 11–03, Rockville, Maryland 20857, ATTN: Tuei Doong.

FOR FURTHER INFORMATION CONTACT: Tuei Doong, 301 443–3466.

SUPPLEMENTARY INFORMATION: Section 2381 of the Deficit Reduction Act of 1984 (Pub. L. 98–369) amended sections 609 and 1622 of the Public Health Service Act (42 U.S.C. 291i, 300s–1a). These sections provide for recovery of funds by the United States when a health care facility that was constructed with the aid of a grant under Title VI (the Hill-Burton Act) or XVI of the Public Health Service Act is, within 20 years after the completion of the grant-assisted construction, transferred to an entity that would not have been qualified to receive a grant. The sections also provide for recovery of funds where, within the same 20-year period, an assisted facility "ceases to be" a health facility with respect to which a grant could have been made. In either case, the sections established the amount to be recovered as the Federal proportionate share of the value of the facility at the time it is transferred or ceases to be an eligible entity. The right of recovery can be exercised against either the transferor or any subsequent transferee of a facility or, in the case of a facility that has ceased to be an eligible health care facility, *e.g.*, where the facility is closed, against its owners.

The amendments to sections 609 and 1622—while continuing the basic recovery provisions—made certain significant changes which may be summarized as follows:

(1) The transferor of an assisted facility must provide written notice to the Secretary of a sale or transfer within 10 days of the sale or transfer.

(2) The owner of an assisted facility the use of which is changed must provide written notice to the Secretary within 10 days of the change of use.

(3) For facilities that take longer than 180 days from the date of the Department's receipt of the notice of change of status to agree to and pay a recovery amount, interest will accrue on the eventual recovery amount beginning 180 days after receipt of the required notice by the secretary, and ending when the recovery amount is collected.

(4) For facilities that fail to notify the Secretary of a change in status (sale, transfer, or change of use) within 10 days of the change, interest will begin to accrue on the date of the change of status.

(5) In the case of facilities which changed status before the date of enactment of Pub. L. 98–369 (July 18, 1984), interest would begin to accrue 30 days after the enactment (August 17, 1984), but in no case earlier than 180 days from the date of the change of status regardless of when the facility notified the Secretary of the change.

(6) A proprietary entity that acquires an assisted facility may be granted a waiver of the recovery by the Secretary if the entity establishes an irrevocable trust in accordance with the statute that pays for medical care delivered to persons unable to pay, in accordance with the facility's uncompensated service obligation under 42 CFR Part 124 Subpart F. The trust must be established in an amount equal to the greater of (a) twice the amount of the remaining uncompensated care obligations of the facility or (b) the amount that would have been due under recovery.

Discussion of Public Comments

On March 18, 1985, a Notice of Proposed Rule Making (NPRM) was published in the **Federal Register** (50 FR 10798) to implement the amendments to sections 609 and 1622, by adding a new Subpart H to Part 124 of Title 42, CFR. A period of 30 days was provided for the public to comment on the proposal. The comments have been carefully reviewed and are summarized and discussed below:

1. *Notification of Sale, Transfer or Change of Use.*—Commenters requested inclusion of more specific definitions of the types of status changes which should be reported to the Secretary, and the aspects of management contracts which will be reviewed by the Secretary.

In response to the comments, the term "transfer" in § 124.704(a) has been explained in more detail as occurring when a facility is conveyed to another entity through lease, merger, bankruptcy, foreclosure or other arrangement. This explanation reflects, in part, the judicial decisions in *United States* v. *Brady*, 385 F. Supp. 1347 (S.D. Fla. 1974), and *United States* v. *First*

Georgia Bank, 529 F.Supp. 384 (N.D. Ga. 1982), where title to a Hill-Burton facility was conveyed following bankruptcy or foreclosure proceedings.

With regard to providing more guidance concerning management contracts, § 124.704(a)(ii) has been revised to provide that the managing organization will not be deemed to be the operator of the facility if the management agreement contains both of the following provisions:

1. The Board of Directors of the facility retains authority to terminate the agreement at any time upon reasonable notice to the contractor.

2. No employee of the contractor may be a member of the facility's Board of Directors. In the absence of either of these provisions, the Secretary will consider the degree of control granted to the managing organization over patient admission, determination of what services will be provided, and charges for services provided in the facility. The main criterion as expressed in the regulation is whether the contractor's responsibilities are so pervasive as to lead the Secretary to conclude that the contractor, rather than the grantee, is the operator of the facility, as opposed to its manager. The Department reiterates that a skilled management firm can develop a high level of administrative efficiency for a health care facility, and that it has no objection in principle to the use of management firms by hospitals constructed with Federal grant funds. In general, the Department will not examine the management details of such contracts provided the ultimate control clearly remains with the governing body of the hospital. In particular, we note that hiring and other personnel decisions made by a management firm would not cause a facility to cease to be "non-profit" as the term is defined in the Act. Nevertheless, the method of payment to firms managing hospitals may be examined. If payment to a management firm is calculated as a percentage of a facility's net income, then the facility would have ceased to be "non-profit" as the term is defined in section 645(e) of the Public Health Service Act (see also § 124.702 of these regulations). On the other hand, payments calculated as incentive fees based on management performance targets that do not violate the non-profit principle stated above will not trigger a recovery situation. The Department is reviewing existing guidelines to conform them with this rule. In the meanwhile, of course, any discrepancy is resolved by application of this rule.

Some comments noted that much of the information required for the notice of change of status is not readily available within the 10 day period following the change, contending that accounting and financial information related to the transaction are not usually available until 60 days after the transaction. They requested more time to submit this information, that it be limited solely to Hill-Burton assets, and that the grant information (type and amount of grant, etc.) maintained by the Department should not be provided by the owner.

The Department has eliminated the requirement that the owner provide grant information. With respect to the accounting and financial information, it is noted that § 124.704(b)(3) (proposed as (b)(4)) calls for *estimated* financial and accounting information for the assets involved in the transaction. The estimates are necessary to enable the Department to make its initial recovery calculation, and it is reasonable to assume that the parties to the transaction will have access to this type of information as part of normal business practice. Modifications to the submitted information can be made following the notice; the regulations provide a period of 30 days during which the Department will calculate the recovery amount and 60 days for a response to the Department's initial letter setting forth the recovery amount (see § 124.707(b)(ii)). It is noted that the accounting and financial information contemplated in § 124.704(b)(3) is generally regarded as confidential, commercial or financial information which is exempt from mandatory disclosure under the Freedom of Information Act.

2. *Timetables.*—Commenters requested that the timetable be modified to provide an opportunity for facilities to correct any deficiencies in the notice provided or to explain any delays in meeting the schedule before the Department imposes any penalty.

As previously noted, there is a period, which the Department believes to be ample, during which the information provided in the notice may be modified. That period includes the 30 days during which the Department is making the initial recovery calculation and the 60 days during which the owner can provide information in response to the initial recovery amount.

The comments stated that the timetable is contained in § 124.707(b) and is therefore limited to facilities which select the waiver option. They suggested that there be a similar timetable for recovery situations. A comment suggested that the Department should also be required to act on an independent auditor's certification of a facility's uncompensated care compliance within a specified time frame.

While the timetable is set out in § 124.707(b), it clearly applies also to purely recovery situations. Thus, section 124.707(b) provides that within 30 days after receiving the required notice, the Secretary will send a letter advising of the waiver option *and* the amount due as a recovery. If the waiver option is not selected, the parties have approximately 150 days remaining (180 from the date the notice is received) in which to negotiate and pay the recovery amount before interest can be imposed. The Department has considered and rejected imposing a timetable, other than that prescribed by the statute, in purely recovery situations. Certainly, the remaining 150 days is sufficient time to enable all parties to understand and evaluate the respective positions of each participant in the recovery process.

The Department has accepted the suggestion for a timetable regarding the Department's response to an auditor's certification of a facility's remaining uncompensated care obligation. That language is set out in § 124.707(c)(1)(ii).

3. *Amount of Recovery.*—Commenters suggested modifying the method set out in § 124.705 for calculating the recovery amount by (1) adjusting a transaction value for goodwill, (2) excluding the residual value of a facility (in lease situations), and (3) allowing appraisals in lieu of a calculation based upon depreciated reproduction value. They also questioned the appropriateness of the depreciated reproduction value and its exclusive use when a facility fails to provide the required information.

The Department has retained the methodology for calculating the amount of recovery as set forth in § 124.705 of the NPRM. Thus, the transaction value i.e. the sale price in the event of a sale and, in the case of a lease, the value of the lease plus the residual value of the facility when the lease terminates—will be used in each instance of an arms-length sale or transfer of a facility.

Goodwill is the value of a business in reputation over and beyond its tangible assets. Because of the speculative nature of goodwill and the difficulty of verifying its value, goodwill is recognized as excluded from the value of a facility in an arms-length transaction only when the adjusted transaction value, is greater than the replacement (reproduction) value and when the buyer enters goodwill as such in its new books.

The inclusion of the residual value of a facility that is leased is appropriate since recovery is based on the value of

the *facility* at the time of transfer, not only on the value of the lease. Thus, the projected value of the facility at the conclusion of a lease is clearly relevant to its value at the time of the lease.

The Department believes it is justified in utilizing a depreciated reproduction valuation method where the required information is not provided since it is an objective method of determining value. Because an appraisal is a subjective method of arriving at value, the Department has adopted other more objective methods of transaction value or the depreciated reproduction valuation method.

4. *Calculation of Interest.*—The amendments to the statute expressly prescribe the period for charging interest for facilities which changed status before and after enactment of the amendments. The amendments also delay the imposition of interest charges for facilities which comply with the notice requirement. The Conference Report stated that:

> the conferees expect that the Department, upon notification will expedite recovery proceedings to avoid subjecting facilities to interest charges that might result from Departmental delays. The Secretary may in regulation provide that, where such delays are caused solely by the Department, the resulting interest charges may be waived. (130 Cong. Rec. H. 6742–43 (daily ed. June 22, 1984)).

It is in light of the statutory provisions concerning the calculation of interest and its legislative history that we turn to the comments.

A number of comments suggested waiving the interest during certain time periods and changing the time period. It was suggested that waiver of interest be tied to a timetable. It was also suggested that interest be waived during any period of disagreement between the Department and facility owner on the amount of the recovery or uncompensated care obligation. Finally, it was recommended that stronger language be used for waiver of interest when the Department is solely responsible for delays.

The time periods during which the Secretary is directed by statute to charge interest are set out in § 124.706(a). The Department has also incorporated the Conference Report statement relating to waiver of interest when delays are caused solely by the Department at § 124.706(b). In response to the comments, the Department does not intend to depart from the statutory directive by waiving interest during certain time periods or by tying negotiations to a specific timetable. The statute does provide a "grace period" of 180 days following receipt of the required notification. Congress thereby recognized that there would be instances of disagreement between the Department and other parties. It cannot be fairly concluded that delays resulting from such disagreements will in all cases be "caused solely by the Department". Rather, these instances are best resolved on a case-by-case basis. Further clarification or stronger regulatory language is, in our view, unnecessary.

It is noted that the statute required that regulations be prescribed within 180 days of enactment or by January 14, 1985. Since the issuance of implementing regulations is the responsibility of the Department, it could reasonably be argued that the failure to adopt regulations within the prescribed time frame represents a delay caused solely by the Department. Accordingly, interest charges will be suspended from the date prescribed by Congress for the Department to have promulgated its regulations (January 14, 1985) and the date the regulations actually are promulgated.

5. *Calculation of Uncompensated Care Obligation.*—Several comments related to the need to provide clarification on the methodology for calculating the uncompensated care obligation; specifically, guidance for the use of independent auditors, defining "expected useful life" of a facility, calculating the annual compliance level, consumer price index (CPI) adjustments, and treatment of wrongful denials of uncompensated care in the calculation.

Section 124.707(b)(1)(i) has been revised and clarified in response to the comments.

The most obvious change is the elimination of the uncompensated care calculation for facilities which changed status before May 8, 1979 (the effective date of Subpart F). Prior to that date, applicable regulations provided as a compliance alternative the so-called "open door option", which made it impossible to calculate a fixed uncompensated care obligation. Accordingly, for any such facility which opts for the waiver of recovery and establishment of the irrevocable trust to pay for medical care delivered to persons unable to pay, the amount to be placed in trust would be the recovery amount calculated under § 124.705.

In addition, § 124.707(b)(1)(i) as revised advises auditors to use Departmental procedures in Subpart F supplemented with special instructions to be provided by the Secretary.

For a facility which received a grant under Title XVI of the PHS Act, the remaining period of obligation is the "expected useful life" of the facility. That term has been defined as the period of time during which the structure may reasonably be expected to perform the functions for which it was designed or intended. The periods set out in the definition are consistent with the depreciation schedules adopted by the Internal Revenue Service, i.e., 40 years for buildings, 30 years for additions, 20 years for building renovations, 20 years for fixed equipment and 12 years for major movable equipment.

No provision has been made in the calculation to account for past wrongful denials of uncompensated care since such denials would not have applied toward satisfaction of the facility's uncompensated care obligation.

6. *Establishment and Monitoring of the Trust.*—Several commenters took the position that the seller as well as the buyer should have the option to establish a trust, and that the buyer should be required to contribute some minimum amount to the trust.

There is no authority to require the establishment of the trust or to require minimum contributions by any party. The statute requires that if the trust is established, it must be established by the buyer. Since there are no restrictions on who may capitalize the trust, however, contribution of the amount required for the trust is a matter that can be determined by the parties to the transaction involving the facility.

Commenters noted that any reporting requirements for the entity receiving the waiver should not be a burden and should not exceed those applicable to the uncompensated care obilgation. Commenters also proposed: That disbursements from the trust to pay for uncompensated care, costs associated with establishing and administering the trust, and costs associated with the independent audit should be made without any involvement by the Secretary; and that it is sufficient to provide an accounting for these costs by voucher or some other method. On the other hand, another commenter believed some control is necessary to prevent quick drawdowns of the trust.

The regulation attempts to strike a balance between reasonable monitoring and overregulation of the trust. The Secretary will monitor payments from the trust in accordance with Subpart F, and the reporting requirements for delivery of uncompensated care are no greater for a facility delivering such care pursuant to an irrevocable trust than for a facility operating its uncompensated care program without a trust. The Department will review the costs associated with establishing and

administering the trust as provided in § 124.707(d).

7. *Waiver of Recovery for Good Cause.*—It was suggested that good cause waivers be considered where there is (1) loss of the facility due to damage or destruction, (2) the lack of community need results in facility closure, and (3) ownership or control is transferred to a Federal provider.

In some circumstances in which a facility may be lost due to damage, destruction, or natural disaster such as earthquake, it may cease to be used for a permissible use, triggering the recovery provision of the statute; it is possible to qualify for waiver under § 124.708 in a "cease to be" situation. On the other hand, the then-value of a particular facility—which, under some circumstances, might be nominal or nothing—would be taken into consideration in determining a recovery amount. In the case of a facility that closes as a result of lack of community need, it has ceased to be used for a permissible use and a waiver could be considered in accordance with § 124.708. Finally, where ownership or control of the facility is transferred to a Federal entity, the transfer is not considered to be one which triggers the recovery provisions of sections 609 or 1622 of the Act.

8. *Withdrawal of Waiver.*—Some commenters felt that the provissions for withdrawal of a waiver are punitive in nature and may affect the decision to select the waiver option since failure to meet the conditions of the waiver could lead to a withdrawal of the waiver and payment of the recovery amount plus interest.

In providing for withdrawal of a waiver, the Department sought some recourse if a waiver recipient continues to fail to comply with the waiver conditions after it receives reasonable notice and an opportunity to take corrective action. Certainly, it is not the Department's desire nor in anyone's best interest that waivers granted by the Department be withdrawn. However, the provision does guard against abuse by a waiver recipient. It should be noted that if the waiver is withdrawn, § 124.709(e) provides for interest from the date of notification of noncompliance not from the prior date of the sale or transfer.

Commenters asked for clarification of what happens to the trust when a waiver is withdrawn, particularly whether the owner/transferee is obligated to complete its uncompensated care obligation until the trust is depleted. One commenter questioned the disposition of the trust if a facility is transferred to a second ineligible entity before the trust is expended.

So long as the trust is administered in accordance with the regulations, the waiver is in effect and there is no recovery. If the waiver is withdrawn, the regulations provide for recovery. Once a waiver is withdrawn, all Federal interest in the administration of the trust will cease.

9. *General.*—Some commenters recommended that there be a review and hearing process for settling disputes on the recovery amount, terms of waiver, or withdrawal of waiver.

The statute provides the formula for calculating recovery amounts and for judicial resolution of disputes in this area. The Department sees no need for formal administrative review and hearing procedures for settling disputes; such procedures could, in fact, have the effect of prolonging such disputes.

A commenter suggested that requiring compliance with the community service obligation in perpetuity will discourage selection of the waiver option.

The preamble to the notice of proposed rulemaking had noted that the regulations governing the community service obligation place no durational limit on that obligation. After further consideration, the Department has determined that the community service obligation, as characterized in the NPRM, should continue indefinitely. The Deficit Reduction Act amendment requires the entity granted a waiver to "meet the obligations of the facility under [the community service provisions of Titles VI and XVI of the Public Health Service Act]," without specifying any limit on the duration of the obligation. Moreover, the Conference Report explaining the amendment stated that the new owner must agree to assume the community service obligation "as implemented by current regulations," which do not limit the duration of the obligation.

Also § 124.703(a) has been revised to reflect more clearly the Department's long-standing position, upheld in *United States* v. *Brady*, 385 F.Supp. 1347 (S.D. Fla. 1974), that in the case of a transfer or sale of a grant-assisted facility, any transferee, initial or successive, that would be ineligible for a grant is liable for the recovery.

Finally, since new subpart H encompasses the existing regulations in Subpart M of Part 53, the latter rules are being removed.

Executive Order 12291

E.O. 12291 required that a regulatory impact analysis be prepared for major rules, which are defined in the order as any rule that has an annual effect on the national economy of $100 million or more, or certain other economic effects. The Secretary concludes that the regulations are not major rules within the meaning of the Executive Order, because they will not have an effect on the economy of $100 million or more or otherwise meet the threshold criteria.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (15 U.S.C. Ch. 6) requires the Federal Government to anticipate and reduce the impact of rules and paperwork requirements on small businesses. For each proposed rule with a "significant economic impact on a substantial number of small entities," an initial analysis must be prepared describing the proposed rule's impact on small entities.

The impact of the interest charge provision and irrevocable trust option are not significant in relation to hospital revenues. In any case, these provisions are required by the terms of the statute and not as a result of this regulation.

Therefore, the Secretary hereby certifies that an initial regulatory flexibility analysis is not required.

Paperwork Reduction Act

The information collection requirements contained in §§ 124.704 and 124.707 have been approved by the Office of Management and Budget under section 3507 of the Paperwork Reduction Act of 1980 and have been assigned control number 0915-0099.

List of Subjects

42 CFR Part 124

Grant programs—health, Health Facilities, Low income persons.

42 CFR Part 53

Grant programs—health, Health facilities; Hospitals, Loan programs—health, Public health, tuberculosis.

Accordingly, the Department of Health and Human Services is amending Parts 53 and 124 of Title 42 CFR.

Dated: February 3, 1986.

Donald Ian Macdonald,

Acting Assistant Secretary for Health.

Approved: February 14, 1986.

Otis R. Bowen,

Secretary.

PART 53—GRANTS, LOANS AND LOAN GUARANTEES FOR CONSTRUCTION AND MODERNIZATION OF HOSPITALS AND MEDICAL FACILITIES

Subpart M—[Removed]

1. Subpart M of Part 53 is hereby removed.

2. Subpart H of Part 124 is added to read as follows:

PART 124—MEDICAL FACILITY CONSTRUCTION AND MODERNIZATION

Subpart H—Recovery of Grant Funds

Sec.

Authority: The provisions of this subpart H are issued under sections 609 and 1622 of the Public Health Service Act as amended 98 Stat. 112 (42 U.S.C. 291i and 300s–1a).

§ 124.701 Applicability.

The provisions of this subpart apply to facilities with respect to which grant funds were paid for construction or modernization—

(a) Under Title VI or XVI of the Public Health Service Act; or

(b) Pursuant to the authority of the Secretary under any of the following statutes:

(1) The Public Works Acceleration Act of 1962, Pub. L. 87–658 (42 U.S.C. 2641 et seq.)

(2) The District of Columbia Medical Facilities Construction Act of 1968, 82 Stat. 631 (Pub. L. 90–457)

(3) The Appalachian Regional Development Act of 1965, as amended (40 U.S.C. App.).

§ 124.702 Definitions.

As used in this subpart—

"Act" means the Public Health Service Act.

"Department" means the Department of Health and Human Services.

"Expected useful life" means the period of time during which the structure may reasonably be expected to perform the function for which it was designed or intended.

"Facility" means a facility with respect to which grant funds were paid under any of the authorizations listed in § 124.701.

"Fiscal year" means the facility's fiscal year.

"Nonprofit", as applied to any facility, means a facility that is owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"Secretary" means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.

"State agency" means (1) in the case of a facility with respect to which a grant was made under Title VI of the Public Health Service Act or any of the statutes listed in § 124.701(b), the State agency designated pursuant to section 604 of the Public Health Service Act or its successor agency, and (2) in the case of a facility with respect to which a grant was made under Title XVI of the Public Health Service Act, the State health planning and development agency designated pursuant to Title XV of the Public Health Service Act.

"Then value" means the value of the facility on the date the facility is sold, transferred or ceases to be used for a permissible use as described in § 124.704.

§ 124.703 Federal right of recovery.

(a) If any facility is at any time within 20 years after the completion of the grant-assisted construction or modernization sold or transferred to any entity which is either not qualified for a grant under the statute pursuant to which the grant was awarded or not approved as a transferee by the State agency, the United States shall be entitled to recover on the basis of joint and several liability from any transferor, transferee, or successive transferee of the facility an amount determined in accordance with this subpart.

(b) If any facility at any time within 20 years after the completion of the grant-assisted construction or modernization ceases to be a public or other non-profit facility that would have been eligible for a grant under the statute pursuant to which the grant was awarded, the United States shall be entitled to recover from the owners of the facility an amount determined in accordance with this subpart.

§ 124.704 Notification of sale, transfer, or change of use.

(a) The transferor of a facility that is sold or transferred as described in § 124.703(a), or the owner of a facility which ceases to be a public or other nonprofit facility as described in § 124.703(b), shall provide the Secretary written notice of such sale, transfer, or other change not later than 10 days after the date on which the sale, transfer, or change occurs.

(1) *"Transfer."* For purposes of this subpart, a transfer occurs when a facility is conveyed to another entity through lease, merger, bankruptcy, foreclosure, or other arrangement.

(2) *"Cease to be."* For purposes of this subpart,

(i) A facility "ceases to be" a facility for which a grant could have been made under the statute pursuant to which the grant was awarded when it is no longer operated as such a facility; and

(ii) A facility "ceases to be a public or nonprofit facility" when an entity that is not a public or other non-profit corporation or association assumes management responsibilities with respect to the facility which, in the Secretary's judgment, are so pervasive as to constitute operation of the facility. The manager will not be deemed to be the operator of the facility if the management agreement contains both of the following provisions:

The Board of Directors of the facility retains authority to terminate the agreement at any time upon reasonable notice to the contractor.

No employee of the contractor may be a member of the facility's Board of Directors.

In the absence of either of these provisions the Secretary will consider the degree of control granted to the managing organization over patient admission, determination of what services will be provided, and charges for services provided in the facility.

(b) *Content of Notice.* The notice required by paragraph (a) of this section shall be sent to the Secretary by certified mail, and shall contain or be accompanied by

(1) The date of the sale, transfer, or other event that gives rise to the notice;

(2) Copies of any sales contracts, lease agreements, management contracts or other documents pertinent to the event giving rise to the notice;

(3) Estimates of current assets, current liabilities, book value of equipment, the expected value of land on the new owner's books, and the remaining depreciation for all fixed assets involved in the transaction calculated on a straight line basis using commonly adopted expected useful lifetimes.

(c) *Failure to provide notice.* Failure to provide the information required by paragraph (b) will be considered failure to provide the notice required by this section. In any case in which such

information has not been provided, the Secretary will, promptly upon receiving an incomplete notice or otherwise discovering that a sale, transfer or other event giving rise to a recovery may have occurred, send a letter to the owner of the facility requesting the information needed to calculate a recovery amount.

(Approved by the Office of Management and Budget under control number 0915–0099)

§ 124.705 Amount of recovery.

(a) Except as provided in § 124.706, the amount that the United States shall be entitled to recover under this subpart is that amount bearing the same ratio to the then value of so much of the facility as constituted an approved project (or projects) as the amount of Federal participation bore to the cost of the construction or modernization under such project (or projects).

(b) The then value of the facility will be based on:

(1) The transaction value in the case of an arms-length sale or transfer, or

(2) A depreciated reproduction value in the absence of an arms-length sale or transfer or if the buyer fails to provide, within 60 days after the date of the Secretary's letter described in § 124.704(c), the information which, in the judgment of the Secretary, is necessary to establish, adjust, and apportion a transaction value. As used in this section, "transaction value" means in the case of a sale, the sale price, and in the case of a lease, the value of the lease plus the residual value of the facility at the termination of the lease (i.e., the reproduction value or, if appropriate, an alternative use value).

(c) The transaction value will be adjusted to account for the purchase or lease of other assets and the assumption of liabilities associated with the transaction. To determine the amount of Federal recovery, the adjusted value will be apportioned to the grant-aided assets by the ration of the remaining useful lifetime values of those assets to the sum of the remaining useful lifetime values of all assets not previously accounted for in adjusting the transaction value.

(d) A depreciated reproduction value will be established by calculating a reproduction value using construction cost indexes or current costs per square foot for construction, depending on which is more relevant to the type of construction associated with the grant. This reproduction value will then be adjusted by the ratio of the remaining useful life to the total useful life for the assets involved.

(e) In calculating the recovery amount, the Secretary will include as Federal participation any grant assistance received by the facility under an authority listed in § 124.701 and any assistance supplementary to that assistance received for the construction or modernization of the facility under the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121, et seq.) or the Local Public Works Capital Development Act of 1976 (Pub. L. 94–369).

§ 124.706 Calculation of interest.

(a) In addition to the amount of recovery calculated under § 124.705, the United States shall be entitled to recover interest on such amount in accordance with this section at the rate determined by the Secretary based on the average of the bond equivalent of the weekly ninety-day U.S. Treasury bill auction rate for the quarter previous to the quarter in which interest begins to accrue under this section.

(1) *Change of status before July 18, 1984.* For facilities that were sold or transferred or which ceased to be public or other nonprofit facilities before July 18, 1984, interest will be charged beginning August 17, 1984, or 180 days after the date of such sale, transfer or other, whichever is later, and ending on the date the amount the United States is entitled to recover is collected.

(2) *Change of status after July 17, 1984.* For facilities that are sold or transferred or which cease to be public or other nonprofit facilities after July 17, 1984, interest will be charged beginning 180 days after receipt by the Department of the notice required under § 124.704; *Provided, That* if such notice is not provided as prescribed, interest will be charged beginning on the date of the sale, transfer, or change of use, and ending on the date the amount which the United States is entitled to recover is collected.

(b) The Secretary may waive interest charges that result from delays caused solely by the Department.

§ 124.707 Waiver of recovery where facility is sold or transferred to a proprietary entity.

(a) *Conditions of the waiver.* The Secretary may waive the recovery rights of the United States arising under § 124.703(a) if the entity to which the facility was sold or transferred:

(1) Has filed a written request for the waiver within the time limits prescribed by this section;

(2) Has established an irrevocable trust in accordance with this section, in an amount equal to the greater of the amount that would otherwise have been recovered pursuant to § 124.705 (including accrued interest as calculated under § 124.706) or twice the cost of the remaining uncompensated services obligation of the facility as of the date of the change of status, that will be used by the entity only to provide services to those unable to pay in accordance with the requirements of Subpart F of this Part; and

(3) Has agreed to comply with the community service regulations set out in Subpart G of this Part.

(b) *Procedures for obtaining waiver.* (1) Within 30 days after the date of receipt of the information described in § 124.704(b), the Secretary will send a letter to the new owner of the facility advising of the United States' right of recovery and the opportunity to obtain a waiver. For the purpose of advising the new owner of the amount to be placed in the irrevocable trust should the owner wish to obtain a waiver, the letter will also state the dollar amount of the remaining uncompensated care obligation and the amount that would be due under § 124.705, computed as follows:

(i) *Computation of uncompensated care obligation.* (A) For a facility which changes status before the date that Subpart F of this part is effective for the facility, the remaining uncompensated services obligation is zero.

(B) For a facility which changes status after the date that Subpart F of this part is effective for the facility, the Secretary will multiply the annual compliance level, computed under the 10% method specified in 42 CFR 124.503(a)(1)(ii), for the fiscal year in which the change of status occurs times the number of years remaining in the facility's uncompensated services obligation. From this amount, the Secretary will subtract amounts of excess or add amounts of deficit for each fiscal year prior to the change of status for which the Secretary has previously conducted an audit of uncompensated services accounts. Excess and deficits will be adjusted by the percent change in the National Consumer Price Index for Medical Care between the year in which the excess or deficit occurred and the year in which the status change occurred. For each fiscal year prior to the change of status which the Secretary has not audited, the Secretary will add to the remaining obligation an amount equal to the annual compliance level in each such year adjusted by the percent change in the National Consumer Price Index for Medical Care between that year and the year of the status change. The amount computed as the total remaining obligation will then be multiplied by two. If the transferee chooses to accept the Secretary's calculation, no further assessments will

be made of uncompensated care provided prior to the change of status date. If the transferee does not accept the calculation, the transferor or transferee may hire, and may charge against the irrevocable trust established under this section, an independent auditor to certify the compliance level and any excess or deficit for the period from May 18, 1979, up to and including the date of the change of status, using standard Departmental procedures supplemented with instructions provided by the Secretary, and submit the results in accordance with paragraph (b)(2)(ii) of this section. The audit may be conducted for any years *not* included in a previous site assessment conducted by the Department. If the Secretary agrees that a change is appropriate, the Secretary will use this information to adjust the calculation as set out in paragraph (b)(3) of this section. If the independent auditor certifies that qualified care was rendered either at the facility or at a replacement facility operated by the transferee between the date of the change of status and the date of establishment of the trust, and the Secretary agrees, the post transfer level of care shall not affect the calculation of the total remaining uncompensated care obligation to be doubled, but instead shall be recognized as a credit to be drawn from the trust as provided in paragraph (c)(1)(ii) of this section. In the case of a facility with respect to which a grant was made under Title XVI of the Act, the remaining period of obligation will be the remainder of the expected useful life of the facility, as follows: 40 years for buildings, 30 years for additions, 20 years for building renovations, 20 years for fixed equipment and 12 years for major movable equipment.

(ii) *Computation of recovery amount.* The Secretary will determine the recovery amount as provided in § 124.705.

(2) Within 60 days following the date of the Secretary's letter provided pursuant to subparagraph (1), the owner of the facility shall notify the Secretary in writing that it either:

(i) Accepts the trust fund amount for the waiver as offered by the Secretary;

(ii) Provides a detailed statement of an alternative determination of the recovery amount or an independent audit of the remaining uncompensated services obligation as described in paragraph (b)(1)(i) of this section; or

(iii) Does not seek a waiver under § 124.707. Failure to provide a timely response to the Secretary under this subparagraph will be considered an election not to seek the waiver.

(3) Within 30 days following the receipt of the owner's views concerning the calculation, and after considering those views, the Secretary will send a final letter providing the Secretary's determination of twice the remaining uncompensated care obligation and the recovery amount under § 124.705. The amount to be placed in the irrevocable trust will be the higher of those two figures. (See paragraph (a)(2) of this section.)

(4) Within 30 days of the date of the final letter, the owner of the facility shall notify the Secretary in writing whether or not it accepts the terms of the waiver. Failure to provide timely notice to the Secretary under this subparagraph will be considered an election not to accept the waiver.

(c) *Establishment of the trust.* (1) Within 60 days of the date of its acceptance of a waiver under paragraph (b)(2) or (b)(4) of this section, the owner shall begin delivering services to those unable to pay in accordance with subpart F of this Part under an irrevocable trust established in the amount calculated pursuant to paragraph (b). *Provided, that*

(i) The owner shall provide a copy of the trust documents to the Secretary and no trust shall be considered established until the trust documents have been approved by the Secretary; and

(ii) The owner may credit against the trust any uncompensated services provided in accordance with subpart F of this Part between the date of the change of status of the facility and the establishment of the trust. For an owner to receive the credit before the establishment of the trust and deposit of funds therein, the auditor's report covering the post-transfer period shall be submitted with the notification of acceptance of the waiver, and in any event, not later than 30 days from the date of the Secretary's final letter described in paragraph (b)(3) of this section. Within 30 days following the receipt of the auditor's report, the Secretary will notify the owner of the allowable credit, if any. If the auditor's report is not timely submitted, the trust must be established and fully funded, in accordance with the time limits imposed by paragraph (c)(1) of this section, and the Secretary will notify the owner of the allowable credit, if any, within 30 days of the date of the establishment of the trust or within 30 days of the receipt of the report, whichever is later.

(2) The trust shall be administered by a Trustee who is neither an employee of the transferee nor an employee of a subsidiary or of the parent institution of the transferee.

(3) The trust shall provide that the trust corpus and income may be invested only in U.S. Government or U.S. Government insured securities.

(d) *Use of the trust.* The corpus and income of the irrevocable trust shall be used to pay for the costs of uncompensated services, which may include reasonable costs of establishing and administering the trust and the cost of the independent audit described in paragraph (b)(1)(i) of this section, until the trust is exhausted.

(Approved by the Office of Management and Budget under control number 0915–0099)

§ 124.708 Waiver of recovery—good cause for other use of facility.

The Secretary may for good cause waive the recovery rights of the United States arising under § 124.703(b). In determining whether there is good cause under this section for releasing the applicant or other owner of the facility from its obligation, the Secretary will take into consideration the extent to which:

(a) The facility will be devoted by the applicant or other owner to use for another public or nonprofit purpose which will promote the purpose of the Act;

(b) There are reasonable assurances that for the remainder of the 20-year period other public or nonprofit facilities not previously utilized for the purpose for which the facility was constructed will be so utilized and are substantially equivalent in nature and purpose.

§ 124.709 Withdrawal of waiver.

(a) Any waiver granted under this subpart is conditioned upon the recipient of the waiver carrying out the obligations imposed by § 124.707 or § 124.708 as applicable.

(b) The Secretary will monitor compliance with the community service and uncompensated care obligations of any entity that receives a waiver.

(c) Should a recipient of a waiver fail to comply with the applicable conditions, the Secretary will withdraw the waiver and seek recovery based on the value of the facility on the date the right of recovery first arose under § 124.703.

(d) No waiver will be withdrawn until the recipient has been notified in writing by the Secretary of the noncompliance and has failed to take corrective action within 90 days after the date of such notice.

(e) Should the waiver be withdrawn, the amount of the Government's recovery will be the amount set out in the Secretary's determination letter as described in § 124.707 (b)(1) or (b)(3) as

applicable plus interest from the date of the notification sent in accordance with paragraph (d) of this section.

[FR Doc. 86-5066 Filed 3-6-86; 8:45 am]
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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 67 and 69

[CC Docket No. 78-72; CC Docket No. 80-286; FCC 85-655]

MTS and WATS Market Structure; Establishment of a Joint Board

AGENCY: Federal Communications Commission.

ACTION: Final rule (decision and order).

SUMMARY: The Commission adopts the Federal-State Joint Board's recommendations concerning: (1) The jurisdictional separations and access charge treatment of Centrex/CO service; (2) direct assignment of closed end WATS access line costs and the allocation of toll terminal line costs; (3) expansion of the customer premises equipment (CPE) phase-out to include additional CPE-related costs; (4) separations treatment of coinless public telephones; and (5) separations procedures for terminal equipment used by telephone companies in their internal business operations. The Commission adopted the separations and access charge provisions recommended by the Joint Board because they will produce a cost based jurisdictional allocation and recovery of these costs. Implementation of separations procedures and access charge provisions which reflect cost causation principles will promote efficient use of the telephone network.

EFFECTIVE DATE: Amendments set forth in Appendix A, numbers 6, 8, 9, and 10 and Appendix B, number 2, are effective April 7, 1986; all other amendments effective on June 1, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: David Siddall, Common Carrier Bureau, (202) 632-0745.

SUPPLEMENTARY INFORMATION:

List of Subjects

47 CFR Part 67

Jurisdictional separations, Access charges, Communications Common Carriers.

47 CFR Part 69

Telephone.

Decision and Order

In the matter of MTS and WATS Market Structure (CC Docket No. 78-72), and Amendment of Part 67 of the Commission's Rules and Establishment of a Joint Board (CC Docket No. 80-286).

Adopted: December 18, 1985.
Released: January 7, 1986.
By the Commission.

I. Introduction

1. In its *Recommended Decision and Order*[1] in this proceeding adopted July 12, 1985, the Joint Board made recommendations concerning: (1) The jurisdictional separations and access charge treatment of Centrex/CO service; (2) direct assignment of closed end WATS access line costs and the allocation of toll terminal line costs; (3) expansion of the customer premises equipment (CPE) phase-out to include additional CPE-related costs; (4) separations treatment of coinless public telephones; and (5) separations procedures for terminal equipment used by telephone companies in their internal business operations. The Commission adopts the Joint Board's recommendations concerning these issues for the reasons given by the Joint Board. The following sections contain a brief discussion of each issue.

II. Centrex/CO Service

2. Centrex/CO service is offered by local telephone companies under state tariffs as an alternative to the use of a Private Branch Exchange (PBX) on the customer's premises, with the central office switch performing intercom switching and other functions that can also be performed by a PBX. This service requires a separate line or its equivalent between the central office and each telephone station on the subscriber's premises while use of a PBX allows fewer circuits between the customer's premises and the central office.

3. The Joint Board recommended that the Commission continue application of the existing separations procedures for Centrex/CO subscriber line costs. Under these procedures, Centrex/CO line costs are allocated in the same manner as the cost of other subscriber lines used jointly for local exchange and toll service. We agree with the Joint Board's recommendations in this regard. Establishment of special separations procedures to recognize the intercom usage of Centrex/CO lines would be inconsistent with our previous decision establishing a flat twenty-five percent interstate allocation factor for all non-traffic sensitive (NTS) facilities regardless of usage.[2] We also agree with the Joint Board's conclusion that application of a PBX trunk equivalency ratio[3] for separating Centrex/CO line costs would not solve any of the potential problems, described in the comments, concerning implementation of subscriber line charges for Centrex/CO service. While this approach would reduce the number of Centrex/CO lines subject to the subscriber line charge, it would substantially increase the intrastate allocation of Centrex/CO costs.

The Joint Board also recommended that the Commission increase the subscriber line charge for embedded Centrex/CO lines from $2.00 to $3.00 per month (or the full multi-line business subscriber line charge, whichever is less) effective on June 1, 1986. In conjunction with this, the Joint Board recommended a clarification of the distinction between new and embedded Centrex/CO lines. Under this approach, rearrangements or changes in the configuration of Centrex/CO lines by a single organization at a single, discrete location would not result in reclassification of embedded lines as new if the total number of lines and the Centrex/CO service offering and features remain unchanged. We endorse the Joint Board's recommendations in this regard. A gradual transition to application of the full multi-line business subscriber line charge for embedded Centrex/CO lines is necessary. However, the $2.00 monthly subscriber line charge for embedded Centrex/CO lines became effective May 25, 1984, and sufficient time has elapsed to allow state regulators to make any necessary adjustments to intrastate Centrex/CO rates. Pursuant to the Joint Board's recommendation, we will also consider waiving application of the additional $1.00 charge if any telephone company demonstrates that the charge will cause significant stranded investment due to abandonment of Centrex/CO service.

5. In conjunction with this, we adopt the clarification of the distinction between embedded and new Centrex/CO lines recommended by the Joint

[1] *MTS and WATS Market Structure* and *Amendment of Part 67 of the Commission's Rules*, CC Docket Nos. 78-72 and 80-286, 50 FR 47774 (November 20, 1985).

[2] *Decision and Order, Amendment of Part 67 of the Commission's Rules*, CC Docket No. 80-286, 96 FCC 2d 781 (1984).

[3] Under this approach, a PBX trunk equivalency ratio would be applied to the actual number of Centrex/CO lines to calculate the equivalent number of PBX trunks. The existing separations procedures would be used to separate the cost of the PBX trunk equivalent Centrex/CO lines. The cost of the remaining Centrex/CO lines would be directly assigned to the state jurisdiction.

Board. This will ease the transition to application of the full multi-line business subscriber line charge for Centrex/CO lines by allowing certain lines to retain their status as embedded. We agree with the Joint Board's conclusion that the Commission should not require retroactive application of this approach to Centrex/CO lines which have already been reclassified due to the administrative burden involved and the fact that all Centrex/CO lines should eventually be subject to the full multi-line business subscriber line charge. Lines which have not been reclassified as new despite past rearrangements and changes are to continue to be treated as embedded absent future changes which require reclassification.

III. WATS Closed End Access Lines and Toll Terminal Lines

6. WATS access lines are used exclusively for either state or interstate toll service. The Commission's original access charge rules included interstate closed end WATS access lines with certain private lines in a dedicated access line category.[4] The Joint Board subsequently recommended that closed end WATS access lines be directly assigned to the state or interstate jurisdiction rather than allocated between the jurisdictions on the same basis as jointly used local exchange subscriber lines.[5] However, we decided to continue the existing separations treatment pending further study of direct assignment by the Joint Board.[6] Upon completion of further proceedings concerning this issue, the Joint Board recommended direct assignment of closed end WATS access lines costs to the appropriate jurisdiction, effective June 1, 1986. The Joint Board also recommended allocation of toll terminal line costs based upon relative toll minutes of use.

7. We agree with the Joint Board's conclusion that direct assignment of closed end WATS access lines constitutes a rational separations treatment since these access lines are used exclusively for either state or interstate toll service. The arguments against direct assignment based on competitive considerations are unconvincing. We also endorse the Joint Board's recommendation that we allocate toll terminal line costs on the basis of relative state and interstate toll minutes of use since these lines do not carry local exchange traffic.

IV. CPE Phase-Out

8. In the *First Recommended Decision and Order*[7] in *Amendment of Part 67 of the Commission's Rules*, the Joint Board recommended a plan for phasing customer premises equipment out of the separations process gradually over a five year period. This plan was intended to alleviate possible effects on local rates due to the Commission's decision to detariff CPE in the *Second Computer Inquiry*.[8] Detariffing CPE would eliminate the contribution which CPE revenues made to recovery of the costs of providing local exchange service. The Commission adopted the Joint Board's recommendation with a few minor technical changes.[9] Under this approach, a base amount of embedded CPE investment, and related expenses, reserves, and taxes for each local exchange carrier was frozen as of December 31, 1982. This amount included the CPE book costs in accounts 231 and 234 and expenses associated with these costs, such as repairs of station equipment and CPE depreciation. The CPE base amount was then reduced one-sixtieth per month beginning January 1, 1983. However, certain CPE-related expenses, such as those related to the station handling process, and commercial expenses were not included in the phase-out plan.

9. The Joint Board recommended continuation of the existing CPE phase-out plan without expansion to include additional CPE-related costs. We agree with the Joint Board's conclusion that the existing CPE phase-out plan has served as a successful transition mechanism to allow state regulators and the industry to adjust to the new environment for the provision of CPE. We endorse the Joint Board's conclusion that expansion of the CPE phase-out plan is not warranted based on the existing cost data which does not allow a determination of whether these additional CPE-related expenses generated a contribution to local exchange service costs, the relatively small amount of costs involved, and the administrative burdens involved in revising the CPE phase-out at this time.

V. Coinless Public Telephones

10. Both local exchange carriers and interexchange carriers have placed coinless public telephones in locations such as airports in which a high volume of toll calling originates. These telephones can be used only for credit card and collect calls. On October 6, 1983, the Commission amended the Uniform System of Accounts (USOA) to establish new accounting classifications and procedures for coinless public telephones, among other things.[10] The new accounting rules provided that the costs associated with such telephones were to be restored in Account 235, "Public Telephone Equipment" and Account 607, "Repairs of Public Telephone Equipment."

11. The Joint Board recommended that this Commission allocate the costs associated with coinless public telephones between the jurisdictions based on the relative toll usage for this equipment. If measurement of traffic over this equipment is not practical, the Joint Board recommended use of study area measurements of relative state and interstate toll usage. We agree with the Joint Board's recommendations since it appears that these telephones will be used almost entirely for toll calling because they operate only on a credit card and collect basis. Provision is made for the use of study area measurements of relative toll traffic if actual measurement of toll traffic over these facilities is not feasible. This will alleviate potential administrative burdens.

VI. Terminal Equipment

12. The Commission *Order* of October 6, 1983, also established a new Account 262, "Other Communications Equipment," to record the costs of terminal equipment used by telephone companies in the course of their internal business operations.[11] The Joint Board recommended that this Commission allocate the costs in Account 262 on the same basis as other office equipment and furniture, which is allocated based on the wage portion of maintenance, traffic, commercial and revenue accounting expense, excluding the wage portion of maintenance expense related

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[4] *Third Report and Order, MTS and WATS Market Structure*, 93 FCC 2d 241 (1983). That category was merged with the special access category in the *First Reconsideration Order, MTS and WATS Market Structure*, CC Docket No. 78-72, 97 FCC 2d 682 (1984).

[5] *Second Recommended Decision and Order, Amendment of Part 67 of the Commission's Rules*, CC Docket No. 80-286, 48 FR 46554 (Oct. 13, 1983).

[6] *Decision and Order, Amendment of Part 67 of the Commission's Rules*, CC Docket No. 80-286, 96 FCC 2d 781 (1984).

[7] CC Docket No. 80-286, 46 FR 63344 (December 31, 1981).

[8] *Final Decision, Amendment of § 64.702 of the Commission's Rules (Second Computer Inquiry)*, Docket No. 20828, 77 FCC 2d 384 (1980), *reconsideration*, 84 FCC 2d 50 (1980), *further reconsideration*, 88 FFC 2d 512 (1981), *aff'd, sub nom. CCIA v. FCC* 693 F.2d (D.C. Cir. 1982), *cert. denied sub nom. Louisiana Pub. Serv. Comm'n. v. FCC*, 103S. Ct. 2109 (1983).

[9] *Decision and Order, Amendment of Part 67 of the Commission's Rules*, CC Docket No. 80-286, 89 FCC 2d 1 (1982).

[10] *Report and Order, Detariffing of CPE and Customer-Provided Cable/Wiring*, CC Docket No. 82-681, 48 FR 50534 (Nov. 2, 1983).

[11] *Id.*

to general office space. We endorse the Joint Board's conclusion that telephone terminal equipment used in a telephone company's internal business operations is a cost of doing business similar to other office equipment and furniture and should be allocated on the same basis.

VII. Regulatory Flexibility Certification

13. We certify that the Regulatory Flexibility Act is not applicable to the rules we are adopting in this proceeding. Although some local exchange carriers are very small, local telephone companies do not appear to fall within the Regulatory Flexibility Act's definition of a "small entity." The Act incorporates the definition of a "small business" in Section 3 of the Small Business Act as the definition of a "small entity." The latter definition excludes any business that is dominant in its field of operation. Exchange carriers, even small ones, enjoy a dominant monopoly position in their local service area. The Commission has found all exchange carriers to be dominant in the *Competitive Carrier* proceeding, 85 FCC 2d 23–24 (1980). To the extent that interexchange carriers may be affected by these rules, we hereby certify that these rules will not have a significant economic effect on a substantial number of small entities.

VIII. Ordering Clauses

14. Accordingly, it is ordered that, the Joint Board's recommendations concerning the issues discussed above are adopted.[12]

15. It is further ordered that, the amendments to Parts 67 and 69 of the Commission's Rules set forth in Appendix A and Appendix B, are adopted.[13] These amendments are to be effective 30 days after publication in the **Federal Register** unless otherwise indicated.

Federal Communications Commission.

William J. Tricarico,

Secretary.

Appendix A

PART 67—[AMENDED]

47 CFR Part 67 is amended as follows:

1. The authority citation for Part 67 continues to read as follows:

Authority: (47 U.S.C. 151), 48 Stat. 1064, as amended 50 Stat. 189 (47 U.S.C. 154(i)), 48 Stat. 1064 (47 U.S.C. 151(j)), 48 Stat. 1064 (47 U.S.C. 221(c)), 48 Stat. 1080 (47 U.S.C. 410(c)), 85 Stat. 363.

2. Effective June 1, 1986, § 67.122 is amended by revising paragraph (a)(3) to read as follows:

§ 67.122 Categories of outside plant.

* * * * *

(a) * * *

(3)—Subscriber Line Outside Plant Excluding Wideband— Category 1.3— This category includes outside plant between local central offices and subscriber premises used for message telephone, TWX subscriber lines, private line local channels and circuits between control terminals and radio stations providing very high frequency maritime service or urban or highway mobile service. This category also includes outside plant between local central offices and public telephones.

3. Effective June 1, 1986, § 76.124 is amended by revising the introductory text of paragraphs (c) and (d), and revising (d)(1)–(d)(3) and (d)(7)(ii), to read as follows:

§ 67.124 Exchange outside plant categories and apportionment procedures.

* * * * *

(c) Exchange Trunk Outside Plant (Wideband and Non-Wideband)— Category 1.2—The cost of the exchange outside plant assignable to this category in the study area is separately identified for the following subsidiary categories: Category 1.21 Trunk plant used exclusively for exchange message services; Category 1.22 Trunk plant used exclusively for toll message services, excluding WATS closed end access, or jointly for exchange and toll message services, excluding WATS closed end access service; Category 1.23 Trunk plant used for TWX access lines; Category 1.24 Trunk plant used exclusively for interstate private line services and interstate WATS service; Category 1.25 Trunk plant used exclusively for state private line services and state WATS service.

* * * * *

(d) Subscriber Line Outside Plant Excluding Wideband—Category 1.3— The first step in apportioning the cost of the subscriber line outside plant among the operations is the determination of an average cost per working loop. This average cost per working loop is determined by dividing the total cost of subscriber line outside plant assigned Category 1.3 in the study area by the sum of the working loops described in subcategories 1.31, 1.32, 1.33, 1.34, and 1.35. The cost of the subscriber line outside plant assigned Category 1.3 is further assigned to the following subsidiary categories and apportioned in accordance with §§ 67.124(d)(1)–67.124(d)(4); Category 1.31—Subscriber line outside plant used exclusively for state private line services and state WATS closed end access service; Category 1.32—Subscriber line outside plant used exclusively for interstate private line services and interstate WATS closed end access service; Category 1.33—Subscriber line outside plant used jointly for exchange service and toll message services, excluding WATS closed end access; Category 1.34—Subscriber line outside plant used for TWX service; Category 1.35—Subscriber line outside plant used exclusively for toll message services, excluding WATS closed end access service.

(1) The cost of subscriber line outside plant assigned Category 1.35 for the study area is determined in the same manner as the plant assigned Category 1.34, and apportioned between state toll and interstate toll on the basis of the relative number of minutes of use of this plant in the study area.

(2) The average subscriber line outside plant cost per loop determined in § 67.124(d) is applied to the counts of working loops used in furnishing state and interstate private line local channels (excluding wideband) and state and interstate WATS closed end access lines, and the amounts so determined are assigned to categories 1.31 and 1.32 and are assigned directly to the appropriate operations.

(3) The cost of subscriber line outside plant assigned Category 1.33 is determined by subtracting amounts assigned Category 1.34, TWX service, Category 1.35, subscriber line outside plant used exclusively for toll message services excluding WATS closed end access service, and Categories 1.31 and 1.32 private line and WATS closed end access service in §§ 67.124(d)(1) and 67.124(d)(2) from the total cost assigned Category 1.3 in the study area.

* * * * *

(7) * * *

(ii) The determination of whether the decrease in the interstate allocation for a given study area resulting from the operation of §§ 67.124(d) and 67.641(a) through (c) exceeds ten percentage points shall be made by calculating a percentage interstate allocation for both of the years involved. This shall be done by dividing the interstate allocation of OSP Category 1.33, COE Category 8.13

[12] The word "exchange" was inadvertently dropped from the revised version of § 67.313(b)(5) set out in Attachment A of the Joint Board's *Recommended Decision and Order*. Accordingly, we have revised the recommended language for § 67.313(b)(5) to the term "exchange service." (The word "service" is being added to make the wording follow that which the Joint Board used in referring to other services.)

[13] This action is taken pursuant to sections 4 (i) and (j), 201, 202, 203, 205, 218, 221, 403, and 410 of the Communications Act as amended, 47 U.S.C. §§ 154 (i), (j), 201, 202, 203, 205, 218, 221, 403, and 410.

and inside wire plus associated expenses for each year as calculated pursuant to § 67.124(d)(7)(iv) by the total unseparated investment in OSP Category 1.33, COE Category 8.13 and inside wire plus associated expenses for the corresponding year as calculated pursuant to § 67.124(d)(7)(v). For this purpose, WATS closed end access lines shall be included in OSP Category 1.33 when comparing the interstate allocation for 1985 and 1986. WATS closed end access lines shall be excluded from OSP Category 1.33 when comparing the interstate allocation for 1986 and 1987.

* * * * *

4. Effective June 1, 1986, § 67.126 is amended by revising paragraphs (a)(1) and (a)(2) to read as follows:

§ 67.126 Host/remote message outside plant category and apportionment procedures.

(a) * * *

(1) The cost of host/remote message outside plant excluding WATS closed end access lines for the study area is apportioned on the basis of the relative number of study area minutes-of-use miles applicable to such facilities.

(2) The cost of host/remote message outside plant used for WATS closed end access for the study area is directly assigned to the appropriate jurisdiction.

5. Effective June 1, 1986, § 67.140 is amended by revising paragraph (e)(1)(i) to read as follows:

§ 67.140 Circuit equipment-category

* * * * *

(e) * * *

(1) * * *

(i) The category 8.3 cost of host/remote circuit equipment assigned to message services for the study area is apportioned among the exchange, intrastate toll, and interstate toll operations on the basis of the assignment of host/remote outside plant.

6. Section 67.151 is amended by revising paragraphs (a)(2), the introductory text to (b), and (b)(3) to read as follows:

§ 67.151 General

(a) * * *

(2) The first step in the separation of station equipment is the segregation of station connections in Accounts 232 and 234 (other than inside wiring provided for private line services and public telephone equipment) from all other investment. This plant is apportioned between the state and interstate operations on the same basis as OSP Category 1.33 described in § 67.124(d)(4) through § 67.124(d)(7).

(b) The next step is the assignment of the remaining plant to the six categories listed below and the determination of the cost of the plant so assigned. The basic procedures followed in making the assignments and cost determinations are: the identification of the units of station equipment installed on customers' premises assignable to Categories 1, 2, 3, 4, and 5; determination of the related costs in these categories by the application of an appropriate average unit cost to the units so identified; and the assignment of the remaining station equipment cost to Category 6.

* * * * *

(3) Only that station equipment provided under special service tariffs (e.g., special terminating equipment, trunk circuit equipment, idle circuit terminations, signaling equipment, telephone sets, keys, key sets and turrets which are used for the termination of special service circuits) is assigned to the special service categories. Correspondingly, station equipment used jointly for both special services and message telephone services (e.g., telephone keys, key sets, order turrets, private branch exchange switchboards which are used for the termination of both private lines and exchange lines) and provided under other than special service tariffs is assigned to Category 6.

7. Effective June 1, 1986, § 67.151 is further amended by revising paragraphs (a)(2), (b)(1), and (b)(3) to read as follows:

§ 67.151 General

(a) * * *

(2) The first step in the separation of station equipment is the segregation of station connections in Accounts 232 and 234 (other than inside wiring provided for private line services or WATS closed end access service, and public telephone equipment) from all other investment. This plant is apportioned between the state and interstate operations on the same basis as OSP Category 1.33 described in § 67.124(d)(4) through § 67.124(d)(7).

(b) * * *

(1) Identification of the units of station equipment installed on customers' premises is accomplished by the use of plant, accounting and engineering records supplemented by field inventories, where necessary. Where the numbers of units to be identified are large, sampling methods may be employed. Under such circumstances, however, the costs of telephone and miscellaneous telephone station apparatus in Account 231 and telephone and miscellaneous telephone station connections in Account 232 are assigned to Category 2 by applying to these costs in the study area the ratio of (i) the number of exchange loops used for telephone private line services and WATS closed end access service to (ii) the number of message telephone subscriber lines and exchange loops used for telephone private line services and WATS closed end access service, combined.

* * * * *

(3) Only that station equipment provided under special service tariffs or associated with WATS closed end access lines (e.g., special terminating equipment, trunk circuit equipment, idle circuit terminations, signaling equipment, telephone sets, keys, key sets and turrets which are used for the termination of special service circuits) is assigned to the special service categories. Correspondingly, station equipment used jointly for both special services, or WATS closed end access service and message telephone services excluding WATS closed end access (e.g., telephone keys, key sets, order turrets, private branch exchange switchboards which are used for the termination of both private lines or WATS closed end access lines and exchange lines) and provided under other than special service tariffs is assigned to Category 6.

8. Section 67.152 is amended to redesignate paragraph (e) as paragraph (f), to add a new paragraph (e), and to revise redesignated paragraph (f), to read as follows:

§ 67.152 Station equipment categories and apportionment procedures.

* * * * *

(e) Coinless Public Telephone Equipment—Category 5—This category includes the cost of coinless public telephone equipment contained in Account 235 used exclusively, or virtually exclusively, for toll service as well as the associated station connections. The cost of this coinless public telephone equipment, and the associated wiring in the study area, are apportioned between the state and interstate operations on the basis of the relative toll minutes of use of this equipment in the study area. Relative toll minutes of use for the entire study area may be used if calculation of the equipment-specific allocation factor would not be practical.

(f) Other Station Equipment—Category 6. This category includes all station equipment not assigned to other categories. The cost of station

equipment assigned to this category in the study area is apportioned between state and interstate operations by the application of a subscriber plant factor developed as described in § 67.124(d)(4)–(d)(7).

9. Section 67.153 is amended by revising paragraph (b) to read as follows:

§ 67.153 Phase out and termination of interstate apportionment of customer premises equipment in accounts 231 and 234.

* * * * *

(b) Phase out of customer premises equipment recorded as of December 31, 1982. The recorded investments of customer premises equipment in Accounts 231 and 234 which are on the books as of December 31, 1982 shall be assigned to the categories set forth under § 67.152.

* * * * *

10. Section 67.161 is amended by revising paragraph (c) to read as follows:

§ 67.161 Furniture and office equipment—account 261; Other Communications Equipment—account 262.

* * * * *

(c) The cost of the other furniture and office equipment in Account 261 and the cost of other communications equipment in Account 262 is apportioned among the operations on the basis of the separation of the wage portion of maintenance, traffic, commercial and revenue accounting expenses excluding the wage portion of maintenance expense related to general office space.

11. Effective June 1, 1986, § 67.313 is amended by revising paragraphs (b)(2), (3), and (5) and (c)(4), (c)(5) introductory text, (c)(5)(i), (c)(5)(iii), and (c)(6) to read as follows:

§ 67.313 Test desk work—account 603.

* * * * *

(b) * * *

(2) Expense in this classification is segregated among (i) message services, excluding WATS closed end access; (ii) private line and WATS closed end access service; (iii) TWX; and (iv) wideband services, on the basis of the relative number of working subscriber loops provided for each of these services. In cases where substantial numbers of private line, WATS closed end access lines, TWX or wideband service loops are provided, and where either the analyses in §67.313(a) or analyses of trouble reports on private line, WATS closed end access lines, TWX and wideband services indicate that the exchange circuit plant testing expense per loop associated with any of such services is significantly different from the corresponding expense per loop associated with message services, excluding WATS closed end access, appropriate weighting factors are applied to the counts of loops used for private line, WATS closed end access, TWX and wideband services. These weighting factors are based on periodic analyses of accounting or other records for a representative period.

(3) Subscriber line and service order testing expense assigned message telephone, excluding WATS closed end access service, is apportioned between state and interstate operations on the same basis as that used for the apportionment of the cost of COSP Category 1.33.

* * * * *

(5) Exchange circuit plant testing expense assigned private line services and WATS closed end access service is apportioned among the operations on the basis of the relative number of working loops (weighted if appropriate) used in furnishing exchange services, state private line services, state WATS closed end access service, interstate private line services, and interstate WATS closed end access service.

* * * * *

(c) * * *

(4) The expense of testing all other inter-office circuit plant is further segregated among exchange trunk plant, interexchange circuit plant, host/remote message circuit plant on the basis of the relative number of circuit miles provided for each of these classifications in the study area. In cases where substantial numbers of circuit miles are provided for TWX service, private line services (other than wideband special services), WATS closed end access service, or exchange trunks, and where analyses of trouble reports or other records indicate that the testing expense associated with any of these classifications is significantly different from the corresponding expense per circuit mile associated with message interexchange service, excluding WATS closed end access circuit miles, appropriate weighting factors are applied to the counts of circuit miles for individual classifications to recognize this difference in testing expense. These weighting factors are based on periodic studies of charges to Account 603 for interoffice circuit plant testing during a representative period.

(5) The interexchange circuit trunk testing expense is further segregated among message telephone excluding WATS closed end access, TWX, private line and WATS closed end access services on the basis of the relative number of interexchange circuit miles (weighted, if appropriate) provided for each of these services in the study area.

(i) Interexchange circuit plant testing expense assigned message telephone excluding WATS closed end access is apportioned between state and interstate operations on the basis of the relative number of interexchange message telephone circuit miles, excluding WATS closed end access circuit miles, in the study area assigned to each operation. Jointly used circuit miles are apportioned between state and interstate operations on the basis of conversation-minute-miles.

* * * * *

(iii) Interexchange circuit plant testing expense assigned private line and WATS closed end access services are apportioned between state and interstate operations on the basis of the relative number of interexchange private line and WATS closed end access circuit miles (weighted, if appropriate) in the study area assigned each operation.

* * * * *

(6) Exchange circuit plant testing expenses assigned wideband services is apportioned among the operations on the basis of the assignment of host/remote message outside plant.

* * * * *

12. Effective June 1, 1986, § 67.611 is amended by revising paragraph (a)(1)–(4) and (8) to read as follows:

§ 67.611 Submission of information to the National Exchange Carrier Association.

(a) * * *

(1) Unseparated, i.e., state and interstate, gross plant investment in Outside subscriber Line Plant (OSP) Category 1.33, and COE Category 8.13. This amount shall be calculated as of December 31st of the year preceding each June filing.

(2) Unseparated depreciation reserve and accumulated deferred federal income taxes attributable to OSP Category 1.33 investment, and COE Category 8.13 investment. These amounts shall be calculated as of December 31st of the year preceding each June filing, and shall be stated separately.

(3) Unseparated depreciation expense attributable to OSP Category 1.33 investment, and COE Category 8.13 investment. This amount shall be the actual depreciation expenses for the calendar year preceding each June filing.

(4) Unseparated maintenance expenses attributable to OSP Category 1.33 investment and COE Category 8.13 investment. This amount shall be the

actual maintenance expense for the calendar year preceding each June filing.

* * * * *

(8) The number of working subscriber line outside loops used jointly for non-wideband exchange and message telephone service, excluding WATS closed end access and TWX service, but including subscriber line outside plant associated with pay telephone (OSP Category 1.33). This figure shall be calculated as of December 31st of the year preceding each June filing.

13. Effective June 1, 1986, § 67.621 is amended by revising paragraph (a) to read as follows:

§ 67.621 National and study area average unseparated loop cost per working loop.

(a) Study area unseparated loop cost. For the purposes of calculation of the expense adjustment, the study area unseparated loop cost is equal to the sum of the following:

(1) Return component for net unseparated OSP Category 1.33 investment, and COE Category 8.13 investment. This amount is calculated by deducting the depreciation reserve and accumulated deferred federal income taxes attributable to OSP Category 1.33 investment and COE Category 8.13 investment reported pursuant to § 67.611(a)(2) from the gross plant investment in OSP Category 1.33, and COE Category 8.13 reported pursuant to § 67.611(a)(1) to obtain the net unseparated OSP Category 1.33 investment, and COE Category 8.13 investment. The net unseparated OSP Category 1.33 investment, and COE Category 8.13 investment is multiplied by the study area's cost of capital. The cost of capital is calculated by multiplying the embedded cost of debt times the percent of the total capital that is debt and adding to this amount the product of the authorized interstate rate of return on equity times the percent of total capital that is equity as this information is reported in § 67.611(a)(9).

(2) Depreciation expense attributable to OSP Category 1.33 investment, and COE Category 8.13 investment as reported in § 67.611(a)(3).

(3) Maintenance expense attributable to OSP Category 1.33 investment, and COE Category 8.13 investment as reported in § 67.611(a)(4).

(4) General, other expenses and taxes attributable to OSP Category 1.33 investment, and COE Category 8.13 investment. This amount equals the net unseparated OSP Category 1.33 investment, and COE Category 8.13 investment as calculated in § 67.621(a)(1) multiplied by the unseparated general and other expenses and taxes as reported in § 67.611(a)(5) divided by the unseparated net investment for total telephone plant for the study area. The unseparated net investment for total telephone plant for the study area equals the unseparated gross telephone plant investment as reported in § 67.611(a)(6) minus the unseparated depreciation reserve and accumulated deferred federal income taxes attributable to total telephone plant as reported in § 67.611(a)(7).

14. Effective June 1, 1986, § 67.701 is revised by removing the definition of "Message service" and inserting the new term "Message service or message toll service", to read as follows:

§ 67.701 Glossary.

* * * * *

Message service or message toll service—Switched service furnished to the general public (as distinguished from private line service). Except as otherwise provided, this includes exchange switched services and all switched services provided by interexchange carriers and completed by a local telephone company's access services, e.g., MTS, WATS, Execunet, open end FX and CCSA/ONALS.

* * * * *

Appendix B

PART 69—[AMENDED]

47 CFR Part 69 is amended as follows:

1. The authority for Part 69 continues to read as follows:

Authority: Secs. 4, 201, 202, 203, 205, 218, 403, 48 Stat. 1066, 1070, 1072, 1077, 1094, as amended, 47 U.S.C. 154, 201, 202, 203, 205, 218, 403, unless otherwise noted.

2. Section 69.202 is amended by revising paragraph (c) to read as follows:

§ 69.202 Initial End User Common Line Charges.

* * * * *

(c) A charge that is the lesser of the charge computed pursuant to § 69.104(d) or $2 shall be assessed for each line used for Centrex/CO service that was in place or on order on July 27, 1983. Effective June 1, 1986, each such line shall be assessed a charge that is the lesser of the charge computed pursuant to § 69.104(d) or $3.

* * * * *

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DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Administration

48 CFR Parts 2401, 2403, 2407, 2414, 2415 and 2416

[Docket No. R-86-1276; FR-2186]

Acquisition Regulations; Technical Amendments and Corrections

AGENCY: Office of the Assistant Secretary for Administration, HUD.

ACTION: Final rule; technical amendments.

SUMMARY: This final rule amends and corrects the HUD Acquisition Regulation (HUDAR) to redesignate certain delegations of authority in various sections of the HUDAR to the Department's "Senior Procurement Executive" as defined in HUDAR 2402.101. In addition, this rule revises HUDAR 2416.405 to rephrase certain terms to read "Clause" or "Clauses". Finally, HUDAR 2415.506 is revised to delegate to the Office of the Assistant Secretary for Community Planning and Development the responsibility for ensuring that unsolicited proposals for funding under the Secretary's Discretionary Fund Program are controlled, evaluated, safeguarded, and disposed of in accordance with FAR Subpart 15.5.

EFFECTIVE DATE: April 21, 1986.

FOR FURTHER INFORMATION CONTACT: Edward L. Girovasi, Jr., Director, Policy and Evaluation Division, Office of Procurement and Contracts, telephone (202) 755-5294. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The uniform regulations for the procurement of supplies and services by Federal departments and agencies—the Federal Acquisition Regulation (FAR)—were promulgated on September 19, 1983 (48 FR 42102). HUD promulgated its acquisition regulation (HUDAR) implementing the FAR in the Federal Register of March 1, 1984 (49 FR 7696). The HUDAR is codified at Title 48, Chapter 24 of the Code of Federal Regulations, and has been later revised in the Federal Register of November 8, 1985 (50 FR 46572).

The HUDAR revisions in this rule implement modifications of the FAR and HUD internal procedures since the effective date of the HUDAR (April 1, 1984). Many of these revisions concern the substitution of the term "Senior Procurement Executive" for "Procurement Executive". The term

"Senior Procurement Executive" was added to the definitions in FAR 2.100 as part of the FAR revisions published in the **Federal Register** of January 11, 1985 (50 FR 1726). In addition, other revisions concern the substitution of the term "Clause" or "Clauses" for "Articles". The term "Clause" or "Clauses" for "Articles" is used in the FAR, particularly in Part 52. Finally, HUDAR 2415.506 is revised to delegate to the Office of Program Policy Development for the Assistant Secretary of Community Planning and Development the responsibility for ensuring that unsolicited proposals are controlled, evaluated, safeguarded, and disposed of in accordance with FAR Subpart 15.5.

The Department has determined that this document need not be published as a proposed rule, as is generally required by the Administrative Procedure Act (APA), since this rule merely makes technical amendments to existing HUD regulations.

A Finding of No Significant Impact with respect to the environment required by the National Environmental Policy Act (42 U.S.C. 4321–4347) is unnecessary, since these technical amendments are categorically excluded under HUD regulations at 24 CFR 50.20(k).

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 on February 17, 1981. Analysis of this 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 cost 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.

The Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) requires that Federal agencies obtain approval from the Office of Management and Budget (OMB) before collecting information from 10 or more persons. There are no information collection requirements contained in these technical amendments to the HUDAR.

As required by section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities because it merely makes technical amendments to the Department's regulations.

This rule was not listed in the Department's Semiannual Agenda of Regulations published on October 29, 1985 (50 FR 44166).

List of Subjects in 48 CFR Parts 2401, 2403, 2407, 2414, 2415 and 2416

Government procurement.

Accordingly, the Department amends Title 48, Chapter 24 of the Code of Federal Regulations as follows:

PART 2401—FEDERAL ACQUISITION REGULATIONS SYSTEM

1. The authority citation for 48 CFR Part 2401 continues to read as follows:

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2401.403 [Amended]

2. In HUDAR 2401.403, the term "Procurement Executive" is replaced with the term "Senior Procurement Executive".

2401.404 [Amended]

3. In HUDAR 2401.404, the term "Procurement Executive" is replaced with the term "Senior Procurement Executive".

PART 2403—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

4. The authority citation for 48 CFR Part 2403 continues to read as follows:

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2403.203 [Amended]

5. In HUDAR 2403.203, the term "Procurement Executive" is replaced with the term "Senior Procurement Executive".

2403.204 [Amended]

6. In HUDAR 2403.204, the term "Procurement Executive" is replaced with the term "Senior Procurement Executive".

2403.303–70 [Amended]

7. In HUDAR 2403.303–70, the term "Procurement Executive" is replaced with the term "Senior Procurement Executive".

2403.601 [Amended]

8. In HUDAR 2403.601, the term "Procurement Executive" is replaced with the term "Senior Procurement Executive".

PART 2407—ACQUISITION PLANNING

9. The authority citation for 48 CFR Part 2407 continues to read as follows:

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2407.102 [Amended]

10. In HUDAR 2407.102, the term "Procurement Executive" is replaced with the term "Senior Procurement Executive".

PART 2414—SEALED BIDDING

11. The authority citation for 48 CFR 2414 continues to read as follows:

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2414.407–701 [Amended]

12. In HUDAR 2414.407–701, the second paragraph "(b)" in that section is corrected to read "(d)".

PART 2415—CONTRACTING BY NEGOTIATION

13. The authority citation for 48 CFR Part 2415 continues to read as follows:

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

14. In HUDAR 2415.506, the current paragraph (b)(2) is redesignated as paragraph (b)(3), and a new paragraph (b)(2) is added, to read as follows:

2415.506 Agency procedures.

* * * * *

(b) * * *

(2) *For funding under the Secretary's Discretionary Fund Program*—Department of Housing and Urban Development, Assistant Secretary for Community Planning and Development, Office of Program Policy Development, 451 Seventh Street, S.W., Washington, D.C. 20410.

* * * * *

PART 2416—TYPES OF CONTRACTS

15. The authority citation for 48 CFR 2416 continues to read as follows:

Authority: Sec. 205(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486(c)); sec. 7(d) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2416.405 [Amended]

16. In HUDAR 2416.405, the term "Article" is replaced with the term "Clause", and the term "Articles" or "General Provisions" is replaced with the term "Clauses".

Dated: February 27, 1986.

Judith L. Tardy,

Assistant Secretary for Administration.

[FR Doc. 86-5059 Filed 3-6-86; 8:45 am]

BILLING CODE 4210-01-M

Proposed Rules

Federal Register
Vol. 51, No. 45
Friday, March 7, 1986

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

Animal and Plant Health Inspection Service

[Docket No. 86-009]

9 CFR Parts 1, 2, and 3

Animal Welfare Standards; Laboratory Animals

AGENCY: Animal and Plant Health Inspection Services, USDA.

ACTION: Solicitation of information for drafting proposed regulations and standards under Pub. L. 99-198.

SUMMARY: Pub. L. 99-198, title XVII, Subtitle F, commonly known as the "Improved Standards for Laboratory Animals Act," amends the Animal Welfare Act. This law was signed by the President on December 23, 1985, and requires the Secretary to develop and promulgate standards and regulations in certain areas of animal care and use not previously regulated. In order to develop more workable and equitable regulations and standards, the Department is soliciting comments and suggestions.

DATE: Written comments must be received by May 6, 1986.

ADDRESS: Written comments should be submitted to Dr. R. L. Crawford, Animal Care Staff, Animal and Plant Health Inspection Service, USDA, Room 756, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Written comments received may be inspected in Room 756 of the Federal Building between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Animal Care Staff, Animal and Plant Inspection Service, USDA, Room 756, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Telephone (301) 436-7833.

SUPPLEMENTARY INFORMATION: The Secretary will promulgate additional standards and regulations for the care and treatment of animals in research and by licenses. By this notice, the Department invites interested parties to submit any relevant comments on the following areas:

1. Exercise for dogs held by dealers, research facilities, and exhibitors.

a. What is the minimum period of exercise and the types of exercise that should be required.

b. How often should dogs be exercised.

c. What dogs require exercise (i.e., long-term holding, short-term holding, or all dogs).

2. Psychological well-being of primates held by dealers, research facilities, and exhibitors.

a. What is the minimum space and time period of exercise that should be required.

b. What types of devices or articles should be provided for environmental enrichment.

c. How often should this exercise and enrichment be provided.

d. Should it apply to long-term animals, short-term animals, or all animals.

3. A general listing of painful procedures which should require the use of anesthetics, analgesics, or tranquilizers in research animals at research facilities.

4. A general listing of major operative experiments from which an animal is allowed to recover, which should prohibit the same animal being used in another major operative experiment from which it is allowed to recover for surgical animals used by research facilities.

Comments received will be reviewed and considered during the drafting of proposed regulations and standards under the Animal Welfare Act amendment. It is anticipated that regulations in 9 CFR part 2 will be drafted and published as proposed rulemaking during the summer of 1986. Standards in 9 CFR Part 3 will be drafted and published at a later date.

Done at Washington, DC, this 4th day of March 1986.

J. K. Atwell,

Deputy Administrator, Veterinary Services, Animal and Plant Health Inspection Service.

[FR Doc. 86-5037 Filed 3-6-86; 8:45 am]

BILLING CODE 3410-34-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 86-ASW-1]

Proposed Amendment of Transition Area; Dallas/Fort Worth, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the transition area at Dallas/Fort Worth, TX. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Bourland Field Airport, Cresson, TX. This action is necessary since there is a proposed VOR/DME SIAP to the Bourland Field Airport utilizing the Action VORTAC (AQN). This proposed action is an amendment to the existing Dallas/Fort Worth, TX, transition area which already provides part of the necessary controlled airspace for Bourland Field Airport. Coincident with this proposed action, the airport status will be changed from visual flight rules (VFR) to instrument flight rules (IFR).

DATES: Comments must be received on or before April 21, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 86-ASW-1, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

The informal docket may also be examined during normal business hours at the Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: David J. Souder, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877-2622.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-ASW-1." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, P.O. Box 1689, Fort Worth, TX 76101. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Dallas/Fort Worth, TX, transition area, thereby establishing a 700-foot transition area for aircraft conducting IFR activity at Bourland Field Airport, Cresson, TX. To enhance airport usage, a new instrument approach procedure is being developed for the Bourland Field Airport, Cresson, TX, utilizing the Action VORTAC as a navigational aid. The establishment of a new instrument approach procedure based on this navigational aid entails amending the Dallas/Fort Worth, TX, transition area to encompass Bourland Field Airport and the SIAP, at and above 700 feet above ground level within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and en route environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under IFR and other aircraft operating under VFR. This action will change the airport status from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations were republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Control zones, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

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

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.65.

2. Section 71.181 is amended as follows:

Dallas/Fort Worth, TX Amended

That airspace extending upward from 700 feet above the surface bounded by a line beginning at latitude 33°11'00"N., longitude 97°27'00"W.; to latitude 33°11'00"N., longitude 97°19'00"W.; to latitude 33°26'00"N., longitude 97°15'00"W.; to latitude 33°26'00"N., longitude 97°07'00"W.; to latitude 33°19'00"N., longitude 97°06'00"W.; to latitude 33°19'00"N., longitude 96°57'00"W.; to latitude 33°08'30"N., longitude 96°36'00"W.; to latitude 33°08'30"N., longitude 96°25'00"W.; to latitude 33°00'15"N., longitude 96°25'15"W.; thence clockwise along the arc of a 5-mile radius circle centered at latitude 32°56'00"N., longitude 96°26'00"W.; to latitude 32°51'30"N., longitude 96°25'30"W.; to latitude 32°44'00"N., longitude 96°26'00"W.; to latitude 32°41'00"N., longitude 96°29'30"W.; to latitude 32°37'30"N., longitude 96°30'15"W.; to latitude 32°37'45"N., longitude 96°32'45"W.; to latitude 32°34'00"N., longitude 96°37'00"W.; to latitude 32°29'00"N., longitude 96°32'00"W.; to latitude 32°25'00"N., longitude 96°38'00"W.; to latitude 32°31'00"N., longitude 96°44'00"W.; to latitude 32°29'00"N., longitude 97°01'00"W.; to latitude 32°23'00"N., longitude 97°05'00"W.; to latitude 32°16'30"N., longitude 97°25'30"W.; to latitude 32°19'30"N., longitude 97°33'00"W.; to latitude 32°25'00"N., longitude 97°33'00"W.; to latitude 32°25'00"N., longitude 97°42'00"W.; thence north along longitude 97°42'00"W., to and clockwise along the arc of a 23-mile radius circle centered at latitude 32°46'20"N., longitude 97°26'30"W.; to latitude 32°55'00"N.; to longitude 97°56'00"W.; to latitude 33°15'30"N., to longitude 97°49'00"W.; to latitude 33°13'30"N., thence clockwise along the arc of a 5-mile radius circle centered at latitude 33°15'30"N., longitude 97°34'40"W.; to latitude 33°12'00"N., longitude 97°31'30"W.; to point of beginning and within a 6.5-mile radius of the McKinney Municipal Airport (latitude 33°10'43"N., longitude 96°35'25.5"W.) and within 3 miles either side of the 010-degree bearing from the NDB (latitude 33°10'43"N., longitude 96°35'34.5"W.) extending from the 6.5-mile radius area to 8.5 miles north of the NDB; and within a 6.5-mile radius of the Cleburne Municipal Airport (latitude 32°21'16"N., longitude 97°26'02"W.).

Issued in Fort Worth, TX, on February 24, 1986.

Donald R. Guempel,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 86-4939 Filed 3-6-86; 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-ASW-6]

Proposed Amendment of Transition Area; Shawnee, OK

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the transition area at Shawnee, OK. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing a new standard instrument

approach procedure (SIAP) to the Prague Municipal Airport, Prague, OK. This action is necessary since the city of Prague intends to establish a nonfederal nondirectional radio beacon (NDB) approximately 2 miles north of the Prague Municipal Airport. This proposed action is an amendment to the existing Shawnee transition area which already provides part of the necessary controlled airspace for Prague. Coincident with this proposed action, the airport status will change from visual flight rules (VFR) to instrument flight rules (IFR).

DATES: Comments must be received on or before April 21, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 86-ASW-6, Federal Aviation Administration, P.O. Box 1689, Forth Worth, TX 76101.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

The informal docket may also be examined during normal business hours at the Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: David J. Souder, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Forth Worth, TX 76101; telephone: (817) 877-2622.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-ASW-6." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, P.O. Box 1689, Fort Worth, TX 76101. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Shawnee, OK, transition area, thereby establishing a 700-foot transition area at Prague, OK. To enhance airport usage, a new instrument approach procedure is being developed for the Prague Municipal Airport, Prague, OK, utilizing the Prague NDB (GGU) as a navigational aid. This navigational aid will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails amending the Shawnee, OK, transition area to encompass Prague Municipal Airport and the new SIAP at and above 700 feet above ground level within which aircraft are provided air traffic control service. Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and en route environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under IFR and other aircraft operating under VFR. This action will change the airport status from VFR to IFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Control zones, Transition areas.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

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

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.65.

2. Section 71.181 is amended as follows:

Shawnee, OK Amended

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Shawnee Municipal Airport (latitude 35°21'16" N., longitude 96°56'33" W.); within 3.5 miles each side of the 007-degree bearing from the Shawnee NDB (latitude 35°20'52" N., longitude 90°56'48" W.) extending from the 8.5-mile radius area to 11.5 miles north of the NDB; within an 8.5-mile radius of Seminole Municipal Airport (latitude 35°16'15" N., longitude 90°40'30" W.); and within 3.5 miles each side of the 353-degree bearing from the Seminole NDB (latitude 35°16'08" N., longitude 96°40'30" W.) extending from the 8.5-mile radius area to 11.5 miles north of the NDB; within an 8.5-mile radius of Prague Municipal Airport (latitude 35°28'45" N., longitude 96°43'03" W.); and within 4 miles each side of the 360-degree bearing from the Prague NDB (latitude 35°31'00" N., longitude 96°43'06" W.) extending from the 8.5-mile radius area to 14 miles north of the NDB, excluding the portion which overlies the chandler, OK, transition area.

Issued in Fort Worth, TX, on February 24, 1986.

Donald R. Guempel,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 86-4940 Filed 3-6-86, 8:45 am]

BILLING CODE 4910-13-M

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14 CFR Part 71

[Airspace Docket No. 86-ASW-4]

Transition Area: Mountain View, AR

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the transition area at Mountain View, AR. The intended effect of the proposed action is to provide adequate controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Wilcox Memorial Airport, Mountain View, AR. This action is necessary because the proposed new SIAP on which the existing transition area is based has been revised. This amendment will not change the volume of controlled airspace needed to accommodate instrument flight rules (IFR) activity, but will reorient the transition area extension approximately 60 degrees clockwise.

DATES: Comments must be received within April 7, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 86-ASW-4, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

The informal docket may also be examined during normal business hours at the Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Forth Worth, TX.

FOR FURTHER INFORMATION CONTACT: David J. Souder, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877-2622.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-ASW-4." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, P.O. Box 1689, Fort Worth, TX 76101. Communications must identify the notice number of this NRPM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend the Mountain View, AR, transition area by reorienting that portion which extends beyond the 6.5-mile radius approximately 60 degrees clockwise. The intended effect of this action will ensure segregation of aircraft using the new SIAP under IFR and other aircraft operating under visual flight rules (VFR). Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Aviation, Control zones, Safety, Transition areas, etc.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

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

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.65.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Mountain View, AR

That airspace extending upwards from 700 feet above the surface within a 6.5-mile radius of the Wilcox Memorial Airport (latitude 35°51'52" N., longitude 92°05'33" W.) and within 3 miles each side of the 104-degree bearing of the NDB (latitude 35°52'03" N., longitude 92°04'40" W.) extending from the 6.5-mile radius area to 8.5 miles east of the NDB.

Issued in Fort Worth, TX, on February 25, 1986.

Donald R. Guempel,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 86-4941 Filed 3-6-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Part 71

[Airspace Docket No. 86-ASW-7]

Transition Area; Bonham, TX

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the transition area at Bonham, TX. The intended effect of the proposed action is to provide additional controlled airspace for aircraft executing a new standard instrument approach procedure (SIAP) to the Jones Field Airport, Bonham, TX. This action is necessary since the FAA has under consideration the proposed establishment of a nonfederal nondirectional radio beacon (NDB). The NDB will be located on the airport east of Runway 17/32 at (latitude 33°36'50" N., longitude 96°10'33" W.). This proposed action will benefit aircraft conducting instrument flight rules (IFR) activity at Jones Field Airport.

DATES: Comments must be received by April 21, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Docket No. 86-ASW-7, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101.

The official docket may be examined in the Office of the Regional Counsel, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

The informal docket may also be examined during normal business hours at the Airspace and Procedures Branch, Air Traffic Division, Southwest Region, Federal Aviation Administration, 4400 Blue Mound Road, Fort Worth, TX.

FOR FURTHER INFORMATION CONTACT: David J. Souder, Airspace and Procedures Branch, ASW-535, Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, TX 76101; telephone: (817) 877-2622.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposal. Communications should identify the airspace docket and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this proposed notice must submit with those comments a self-addressed, stamped postcard on which the following statement is made: "Comments to Airspace Docket No. 86-ASW-7." The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Office of the Regional Counsel, 4400 Blue Mound Road, Fort Worth, TX, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRM

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace and Procedures Branch, Air Traffic Division, Southwest Region, P.O. Box 1689, Fort Worth, TX 76101. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRM's should also request a copy of Advisory Circular No. 11-2 which describes the application procedure.

The Proposal

The FAA is considering an amendment to § 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to provide additional 700-foot transition area at Bonham, TX. To enhance airport usage, a new instrument approach procedure is being developed for the Jones Field Airport, Bonham, TX, utilizing the Bonham NDB as a navigational aid. This navigational aid will provide new navigational guidance for aircraft utilizing the airport. The establishment of a new instrument approach procedure based on this navigational aid entails designation of additional transition area at Bonham, TX, at and above 700 feet above ground level within which aircraft are provided air traffic control service.

Transition areas are designed to contain IFR operations in controlled airspace during portions of the terminal operation and while transiting between the terminal and en route environment. The intended effect of this action is to ensure segregation of aircraft using the approach procedure under IFR and other aircraft operating under VFR. Section 71.181 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Control zones, Transition areas, etc.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the FAA proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—[AMENDED]

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

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); 14 CFR 11.65.

§ 71.181 [Amended]

2. Section 71.181 is amended as follows:

Bonham, TX

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Jones Field Airport, Bonham, TX, (latitude 33°36'41" N., longitude 96°10'45" W.) and within 4.5 miles each side of the 025-degree radial of the Blue Ridge VORTAC extending from the 6.5-mile radius area to 42.5 miles northeast of the VORTAC, and within 2.5 miles each side of the 346-degree bearing from the Bonham NDB (latitude 33°36'50" N., longitude 96°10'33" W.) extending from the 6.5-mile radius to 8.5 miles north of the Bonham NDB.

Issued in Fort Worth, TX, on February 25, 1986.

Donald R. Guempel,

Acting Manager, Air Traffic Division, Southwest Region.

[FR Doc. 86-4942 Filed 3-6-86; 8:45 am]

BILLING CODE 4910-13-M

INTERNATIONAL TRADE COMMISSION

19 CFR Part 213

Trade Remedy Assistance

AGENCY: International Trade Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The proposed rules would create a new section of the Rules, Part 213, entitled *Trade Remedy Assistance.* Part 213 covers trade remedy assistance to be provided by the Commission pursuant to new section 339 of the Tariff Act of 1930 (19 U.S.C. 1339), as added by section 221 of the Trade and Tariff Act of 1984. Section 339 of the Tariff Act of 1930 requires the Commission to establish a Trade Remedy Assistance Office to provide information to the public concerning remedies and benefits available under the trade laws, and the petition and application procedures, and the appropriate filing dates, with respect to such remedies and benefits. Section 339 further requires the Commission to provide technical assistance to eligible small businesses to enable them to prepare and file petitions and applications to obtain remedies and benefits that may be available under the trade remedy laws administered by the Commission.

The rules proposed herein establish guidelines for small business eligibility to receive technical assistance, the procedure for applying for such assistance and procedures governing the provision of such assistance by the Trade Remedy Assistance Center Members of the public seeking general information from the Center would not be subject to the application procedures set forth in these proposed rules.

DATE: The Commission will consider comments on these proposed rules received on or before April 21, 1986.

ADDRESS: Comments should conform with Commission rule § 201.8 (19 CFR 201.8) and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Jeffrey L. Gertler, Esq., Trade Remedy Assistance Center, U.S. International Trade Commission, Room 130, 701 E Street, NW., Washington, DC 20436, telephone (202) 523-0488.

Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on (202) 724-0002.

SUPPLEMENTARY INFORMATION: Authority for this proposed rulemaking is contained in 19 U.S.C. 1335, which authorizes the Commission to adopt such reasonable procedures and rules and regulations as it deems necessary to carry out its functions and duties.

Explanation of Proposed rules

The rules being proposed are designed to fulfill the Congressional mandate set forth in section 339 of the Tariff Act of 1930 (19 U.S.C. 1339), as added by section 221 of the Trade and Tariff Act of 1984 (Pub. L. 98-53, approved Oct. 30, 1984, 98 Stat. 2989), which led to creation of the Trade Remedy Assistance Center ("the Center") to provide, in part, technical assistance to eligible small businesses petitioning the Commission for trade relief. The Center was established at the Commission on January 29, 1985 in accordance with section 339 of the Tariff Act of 1930. In providing technical assistance to an eligible small business, the Center operates independently of other Commission employees.

Congress determined that the technical assistance should be provided to those small businesses which because of their size have neither adequate internal resources nor financial ability to obtain qualified outside assistance. Congress further directed that the provision of technical assistance be limited to such assistance to enable an eligible small business to prepare and file petitions and complaints (other than those which, in the opinion of the Commission, are frivolous) to obtain the remedies and benefits that may be available under an applicable trade law.

In order to fulfill this Congressional mandate, the Commission proposes to adopt a procedure for determining eligibility based upon an applicant's certification that it is a small business (with reference to the Size Standards of the Small Business Administration) and to provide technical assistance up to the filing of the petition for trade remedy relief. Pursuant to new section 339 of the Tariff Act of 1930, the Commission's determination as to eligibility is not reviewable.

The proposed rules first set out definitions of, *inter alia,* technical assistance and eligible small business. Following this definitional section, the proposed rules set out the application procedure. Separate requirements are identified for joint applicants and applications filed by trade associations or unions. The proposed rules then set out the procedures for Commission determination and notification to the applicant and, where appropriate to the Department of Commerce as to the applicant's eligibility to receive technical assistance. Finally, the proposed rules set out a disclosure requirement and address the relationship created between eligible small businesses, the Center and the Commission.

These proposed rules describe the procedure for determining the eligibility of small businesses for purposes of receiving technical assistance only. The Center will of course provide general information on U.S. trade laws in response to every inquiry regardless of whether the inquirer is an eligible small business.

Basis for Referencing SBA Size Standards for Small Business

The Commission proposes to adopt the Small Business Size Standards of the Small Business Administration ("SBA") as the basis for determining the eligibility of business entities seeking technical assistance from the Center. The SBA's size standards are chosen because they offer an objective and readily measurable definition of small business developed from a comprehensive data base.

The SBA's criteria are referenced in section 339 of theTariff Act of 1930 which states in pertinent part that "[i]n determining whether a business concern is an 'eligible small business', the agency may consult with the Small Business Administration. . . . " As a result of discussions with the SBA, the Commission believes that the Small Business Size Standards provides reliable empirical data on what are generally considered to be small businesses.

The SBA's Standards, which classify industries on the basis of the number of employees and the dollar volume of business, among other criteria, are promulgated pursuant to the Small Business Investment Act of 1958, as amended. The applicable measure is the entire business entity, independently owned and operated. Divisions and subsidiaries are counted in determining whether the entity is a small business. Factors considered by the SBA in formulating its size standards include the maximum size of firms, average firm size, the extent of industry dominance by large firms, the number of firms, the distribution by firm size of sales and

employees in the industry, the presence of Federal procurement, and relation to other SBA programs 13 CFR 121.1(b)(3). SBA has promulgated size standards for a variety of programs. The general size standards set forth in 13 CFR 121.2 classify businesses on the basis of number of employees or dollar volume of business and are pertinent to determination of what is a small business under section 339. The size standards in 13 CFR 121.2 are comprehensive; they classify the entire field of economic activities covered by the Bureau of the Census Standard Industrial Classification ("SIC") code. Separate categories are provided for the following major divisions of industry; agriculture; mining; construction; manufacturing; transportation, communications, electric, gas and sanitary services; wholesale trade; retail trade; finance, insurance and real estate; and services. 13 CFR 121.2. In virtually all investigations under the trade statutes, manufacturing or agriculture is the relevant category. These size standards, based on employment or annual receipts, are easily measured and provide a simple, cost-effective definition of small business under section 339.

For most industries, the SBA size standards promulgated in 13 CFR 121.2 classify a business concern as small if it has an average of 500 employees or less in the most recent 12-month period. A few businesses are still classified as small with as many as 1500 employees. In addition, the SBA classifies service businesses as small based upon annual average gross receipts for the preceding three years.

These specific size standards are used for determinations of eligibility for most SBA financial assistance programs and for Government procurement programs. 13 CFR 121.4 and 121.5. Similar size standards are also used by other federal agencies. For example, the Patent and Trademark Office of the U.S. Department of Commerce defines a business concern as small for purposes of paying reduced fees to the Patent and Trademark Office if, *inter alia*, the number of employees does not exceed 500 persons. 13 U.S.C. 121.12. The International Trade Administration of the Department of Commerce proposes to provide technical assistance, pursuant to section 339 of the Tariff Act of 1930, to any business that applies, without reference to any particular size limitation. Proposed Rule 19 CFR 355(i) (50 FR 24220, June 10, 1985). The Commission believes that the SBA Size Standards provide an appropriate threshold for determining eligibility pursuant to these rules.

Certification

In order to apply for technical assistance, an applicant (which may be any entity that may file a petition or a complaint) must certify to the Center in a written application that it meets the SBA Size Standards for the appropriate SIC classification. The certification must be signed under oath by an officer or principal of the applicant. The certification shall include the SIC number and the number of employees or annual receipts of the business concern. An appropriate format for the certification is attached to the proposed rules as Exhibit A.

In the case of a business concern applying for technical assistance, the officer or principal must certify that the business concern is independently owned and operated. If several business concerns jointly or simultaneously from the same industry apply for technical asssitance, each business concern must meet the appropriate SBA size standard(s) and so certify. If a trade association applies for technical assistance, an officer of the trade association must certify that each of the trade association's members meets the appropriate size standards. If a union applies for technical assistance, an officr of the union must certify that the union has less than 10,000 members within the industry for which trade relief is being sought.

Determination and Notification

Within ten (10) days of receiving a properly completed application, the Center will notify an applicant of its eligibility to receive technical assistance. The Center encourages all applicants to discuss their requests for technical assistance with the Center's staff prior to filing the application.

If an application is granted, the receipt of technical assistance by an eligible small business must be disclosed in any resulting petition or complaint filed with the Commission.

The Center will promptly notify the Department of Commerce of the Commission's determination to provide technical assistance to an eligible small business where that assistance relates to an antidumping or a countervailing duty investigation under Title VII of the Tariff Act of 1930. The Commission will then consult with the Department of Commerce with regard to the provision of technical assistance to that eligible small business.

A determination of the Commission that an applicant is eligible to receive technical assistance in accordance with these rules is not and shall not be construed as a determination on the merits of any request subsequently filed by an eligible small business. Nor will such a determination carry any other legal consequence. Eligibility to receive technical assistance from the Center will not give an eligible small business any special rights of access to Commission resources other than those of the Center itself.

Technical Assistance to Eligible Small Businesses

If a small business is determined to be eligible in accordance with the above-proposed criteria, the Center will provide appropriate technical assistance to that small business up to the date of filing of a petition or a complaint with the Commission.

The Commission's decision to limit the availability of technical assistance to the period prior to the filing of a petition or a complaint is based upon the language and legislative history of the Trade and Tariff Act of 1984. New section 339 of the Tariff Act of 1930, as added by section 221 of the 1984 Act, limits technical assistance to that enabling eligible small businesses "to prepare and file petitions and applications . . . ." Continuing assistance past the time of filing petitions and complaints is not contemplated. Moreover, the legislative history indicates that technical assistance from the Commission should not include advocacy services:

> [The Commission's Trade Remedy Assistance Center] would assist in the preparation and filing of the necessary petitions. This assistance would include the legal and economic information support (including any non-confidential data available to the agency) necessary to file, but would not include advocacy services. Since the agency must remain in the role of investigator and fact-finder, it would not be appropriate for it to take a partisan role in the dispute.
>
> H. Rep. 98–725, 98th Cong., 2d. Sess. (1984), at 49.

In addition, the Commission believes that there is no need for continuing assistance to eligible small businesses once an investigation has been instituted and the Commission has assigned its investigative staff to the investigation.

Technical assistance may include informal advice and assistance, including legal advice, to enable eligible small businesses to prepare petitions and complaints to obtain the remedies and benefits under one or more trade remedy laws administered by the Commission.

It is contemplated that the Center will assist eligible small businesses at the pre-institution stage in organizing and assembling relevant background material and in preparing its petition or complaint. The Center's staff will work closely with the small business in reviewing drafts, advising as to compliance with the statute and the rules, and suggesting additions, deletions and possible alternative presentations of the relevant material in light of Commission precedent. The Center's staff will also discuss the eligible small business' further development of the case through the various stages of the investigation. Nevertheless, small business petitioners/complainants should be fully aware that the Center will only be providing assistance and will not be advocating on their behalf. Technical assistance to be provided by the Center is not the equivalent of representation by private counsel.

List of Subjects in 19 CFR Part 213

Foreign trade, Small businesses, Technical assistance.

Proposed Rules

19 CFR Chapter II is amended by adding a new Part 213, to Subchapter C to read as follows:

PART 213—TRADE REMEDY ASSISTANCE

Sec.

Authority: Sec. 339 of the Tariff Act of 1930 (19 U.S.C. 1339), as added by sec. 221, Trade and Tariff Act of 1984 (Pub. L. 98-573, approved Oct. 30, 1984; 98 Stat. 2989); sec. 335, Tariff Act of 1930 (72 Stat. 680; 19 U.S.C. 1335).

§ 213.1 Purpose and applicability of part.

Section 339 of the Tariff Act of 1930 establishes a Trade Remedy Assistance Office in the Commission and directs the Comission to provide: (a) general information to the public concerning the remedies and benefits available under certain trade laws and the procedures followed in investigations under those trade laws; and (b) technical assistance to eligible small businesses seeking remedies and benefits under the trade remedy laws administered by the Commission.[1] The rules in this part govern the establishment of the Trade Remedy Assistance Center, its function, small business eligibility for technical assistance, and procedures for obtaining such assistance. Members of the public seeking general information from the Trade Remedy Assistance Center are not subject to the application procedures set forth in this Part.

§ 213.2 In General.

An eligible small business may receive appropriate technical assistance from the Trade Remedy Assistance Center in accordance with this Part if due to its small size it has neither adequate intenal resources nor the financial ability to obtain qualified outside assistance.

§ 213.3 Definitions.

(a) *Center.* The Trade Remedy Assistance Center shall be referred to as the Center. The Center provides (1) general information to the public concerning the remedies and benefits available under certain trade laws and the procedures followed in investigations undert those trade laws; and (2) technical assistance to elibible small businesses seeking remedies and benefits under the trade remedy laws administered by the Commission.

(b) *Trade Remedy Laws.* The trade remedy laws (with respect to which technical assistance is available) are defined as: Section 201 of the Trade Act of 1974, 19 U.S.C. 2251 ("escape clause" investigations); section 406 of the Trade Act of 1974, 19 U.S.C. 2436 (market disruption investigations); Title VII of the Tariff Act of 1930, 19 U.S.C. 1671 et seq. (countervailing and antidumping duty investigations); and section 337 of the Tariff Act of 1930, 19 U.S.C. 1337 (unfair practices in import trade).

(c) *Technical Assistance.* Technical assistance is informal advice and assistance, including legal advice, to enable eligible small business to prepare petitions and complaints (other than those which are frivolous) to obtain the remedies and benefits available under the trade remedy laws enumerated in § 213.3(b) of this Part. Technical assistance shall be available to eligible small businesses up to the date of the filing of a petition or complaint at the Commission. The Center provides such technical assistance independently of other Commission staff.

(d) *Applicant.* An applicant is any entity which may file a petition or a complaint, including but not limited to an individual, partnership, corporation, joint venture, trade or other association, cooperative, group of workers or certified or recognized union.

(e) *Eligible Small Business.* An eligible small business is an applicant that the Commission has determined to be entitled to technical assistance in accordance with the eligibility criteria and procedures set forth in this Part.

(f) *SBA Size Standards.* SBA size standards are the small business size standards of the Small Business Administration set forth in 13 CFR 121.2. The SBA size standards categorize business concerns according to the Standard Industrial Classification ("SIC") code of the Bureau of Census and base the size determination upon the number of employees or annual receipts of the business concern in the appropriate SIC category.

§ 213.4 Determination of small business eligibility.

(a) *Certification of Eligibility.* An applicant that qualifies under the SBA size standards shall be eligible for

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[1] Section 339 of the Tariff Act of 1930 provides in pertinent part as follows:

"(a) There is established in the Commission a Trade Remedy Assistance Office which shall provide full information to the public, upon request, concerning—

"(1) remedies and benefits available under the trade laws, and

"(2) the petition and application procedures, and the appropriate filing dates, with respect to such remedies and benefits.

"(b) Each agency responsible for administering a trade law shall provide technical assistance to eligible small businesses to enable them to prepare and file petitions and applications (other than those which, in the opinion of the agency, are frivolous) to obtain the remedies and benefits that may be available under the law.

"(c) For purposes of this section—

"(1) The term 'eligible small business' means any business concern which, in the agency's judgment, due to its small size, has neither adequate internal resources nor financial ability to obtain qualified outside assistance in preparing and filing petitions and applications for remedies and benefits under trade laws. In determining whether a business concern is an 'eligible small business', the agency may consult with the Small Business Administration, and shall consult with any other agency that has provided assistance under subsection (b) to that business concern. An agency decision regarding whether a business concern is an eligible small business for purposes of this section is not reviewable by any other agency or by any court.

"(2) The term "trade laws" means—

"(A) chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251 et seq., relating to relief caused by import competition);

"(B) chapters 2 and 3 of such title II (relating to adjustment assistance for workers and firms);

"(C) chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq., relating to relief from foreign import restrictions and export subsidies);

"(D) title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq., relating to the imposition of countervailing duties and antidumping duties);

"(E) section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862, relating to the safeguarding of national security); and

"(F) section 337 of the Tariff Act of 1930 (19 U.S.C. 1337, relating to unfair practices in import trade).

technical assistance from the Center. In order to apply, an applicant must certify to the Commission that it meets the appropriate SBA size standard and provide said certification to the Trade Remedy Assistance Center, U.S. International Trade Commission, 701 E Street, NW., Washington 20436. The certification shall be signed under oath by an officer or principal of the applicant in a form similar to that shown in Exhibit A.

(b) *Business Concerns, Joint Applications, Trade Associations, Unions.* A business concern applying for technical assistance must certify that it is independently owned and operated. If several business concerns jointly or simultaneously from the same industry apply for technical assistance, each business concern must meet the appropriate SBA size standard(s) and so certify. If a trade association applies for technical assistance, and officer of the trade association must certify that each of the trade association's members meets the appropriate size standards. If a union applies for technical assistance, an officer of the union must certify that the union has less than 10,000 members within the industry for which trade relief is being sought.

(c) *Notification of Determination.* The Center shall notify an applicant of that applicant's eligibility to receive technical assistance within ten (10) days of receipt of a properly completed application. Pursuant to 19 U.S.C. 1339(c)(1), the determination is not reviewable by any other agency or by any court.

(d) *Notification to Commerce.* Where an applicant seeks technical assistance on a trade matter involving Title VII of the Tariff Act of 1930, 19 U.S.C. 1671 et seq. (antidumping or countervailing duty investigations), the Center shall: (1) Promptly notify the U.S. Department of Commerce of the Commission's determinations as to the eligibility of the applicant to receive technical assistance; and (2) consult with the U.S. Department of Commerce as to the provision of technical assistance to that applicant.

§ 213.5 Disclosure of receipt of technical assistance.

The receipt of technical assistance from the Center by or on behalf of an eligible small business shall be disclosed in any resulting petition or complaint filed with the Commission.

§ 213.6 Access to Commission resources.

Commission resources other than those of the Center shall be available to eligible small businesses to the same extent that such resources are available to members of the general public. No special rights of access to Commission resources shall be accorded to eligible small businesses.

§ 213.7 Information concerning assistance.

Interested parties may contact the Center with any questions regarding eligibility. Summaries of the import relief statutes and the SBA Size Standards can be obtained by writing to the Trade Remedy Assistance Center, U.S. International Trade Commission, Room 130, 701 E Street NW., Washington, DC 20436.

Exhibit A—Application for Technical Assistance From the Trade Remedy Assistance Center of the U.S. International Trade Commission

Certification of Applicant

The undersigned certifies that applicant
(Name of business entity) _____
(hereinafter referred to as "applicant") is independently owned and operated and qualifies as a small business under the Small Business Size Standards set forth in 13 CFR 121.2. The undersigned further certifies that:

(1) The Standard Industrial Classification ("SIC") code for applicant's line of business is
(4-digit SIC code): _____
and

(2) Applicant employs
(Number of employees):[1] _____
or, if a service industry, (3) Applicant has
(Annual receipts in dollars)[2] _____
(Date) _____
(Signature of Authorized Official) _____
_____
(Name and Title of Authorized Official) _____
_____
(Address and Phone Number) _____
_____
_____

Sworn to before me this ____ day of _____, 19 ____
(Notary Public) _____
My commission expires on
(Date) _____

By order of the Commission.

Issued: February 28, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-4780 Filed 3-6-86; 8:45 am]

BILLING CODED 7020-02-M

[1] "Number of Employees" is defined in 13 CFR 121.2(b).

[2] "Annual Receipts" is defined in 13 CFR 121.2(c).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 606, 610, and 640

[Docket No. 85N-0032]

Biological Products; Blood and Blood Products; Serologic Test for Antibody To Human T-Lymphotropic Virus Type III (HTLV-III); Correction

AGENCY: Food and Drug Administration.

ACTION: Proposed rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a document that proposed to amend the biologics regulations to require that each unit of human blood and blood components intended for use in unit of human blood and blood components intended for use in preparing a product be tested and found nonreactive by an approved serologic test for antibody to human T-lymphotropic virus type III (HTLV-III), using the licensed reagent "Human T-Lymphotropic Virus Type III" (51 FR 6362; February 21, 1986). The contact person's telephone number was in error. This document corrects that error.

FOR FURTHER INFORMATION CONTACT: Steve F. Falter, Center for Drugs and Biologics (HFN-364), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8046.

SUPPLEMENTARY INFORMATION: In FR Doc. 86-3820 appearing on page 6362 in the issue of Friday, February 21, 1986, the following correction is made: In the first column, under **"FOR FURTHER INFORMATION CONTACT,"** the telephone number is changed to read "301-295-8046."

Dated: March 3, 1986.

Adam J. Trujillo,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86-4955 Filed 3-6-86; 8:45 am]

BILLING CODE 4160-01-M

DEPARTMENT OF STATE

22 CFR Part 7

[SD-197]

Board of Appellate Review; South Africa Fair Labor Standard Cases

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Board of Appellate Review proposes to revise its regulations to reflect jurisdiction acquired pursuant to 22 CFR 64.1(b), which entitles any U.S. national operating in South Africa, who, under 22 CFR 64.1(a), has been determined by the Department of State to have failed to comply with the Fair Labor Standards set forth in 22 CFR 61.2, to file a written appeal within 30 days of notification of the decision with the Board of Appellate Review.

DATE: Comments must be submitted on or before April 7, 1986.

ADDRESS: For mailing public comments: Board of Appellate Review, Department of State (L/BAR), SA–1, Room W–115, Washington, DC 20520.

For hand delivery of public comments: Board of Appellate Review, Columbia Plaza, 2401 E Street, NW., Room W–115, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Alan G. James (Chairman), Board of Appellate Review, (202) 663–1364.

SUPPLEMENTARY INFORMATION: 22 CFR Parts 60 through 65 implement the Fair Labor provisions of Executive Order 12532 of September 9, 1985 (50 FR 36861), which provide that no department or agency of the United States may intercede after December 31, 1985 with any foreign government regarding the export marketing activities of certain U.S. firms operating in South Africa unless they adhere to the Fair Labor Standards set forth in the Executive Order.

22 CFR 64.1(b), provides that any U.S. national who has been determined by the Department of State to have failed to adhere to the principles specified in 22 CFR 61.2 shall be entitled to appeal the determination to the Board of Appellate Review within 30 days of receipt of notification of the decision.

The Board of Appellate Review proposed to revise regulations to reflect this newly acquired jurisdiction.

List of Subjects in 22 CFR Part 7

Administrative practices and procedures, Citizenship and naturalization, Organization and functions (Government agencies), Passports and visas, South Africa.

In consideration of the foregoing, the Board of Appellate Review proposes that in Chapter I of Title 22, Code of Federal Regulations Part 7 be amended as follows:

PART 7—BOARD OF APPELLATE REVIEW

1. The authority citation for 22 CFR Part 7 is revised to read as follows:

Authority: Sec. 1, 44 Stat. 887, sec. 4, 63 Stat. 111, as amended, 22 U.S.C. 211a, 2658; secs. 104, 360, 66 Stat. 174, 273, 8 U.S.C. 1104, 1503; E.O. 11295, 36 FR 10603; 3 CFR 1966–1970 Comp., page 507; 22 CFR 60–65; E.O. 12532, 50 FR 36861, unless otherwise noted.

2. In § 73, paragraph (d) is redesignated as (e) and a new (d) is added as follows:

§ 7.3 Jurisdiction.

* * * * *

(d) Appeals from administrative determinations under 64.1(a) of this Chapter, denying U.S. Government assistance to U.S. nationals who do not comply with the Fair Labor Standards in 61.2 of this Chapter.

* * * * *

3. In § 7.5, paragraph (b)(3) is redesignated as (b)(4) and a new (b)(3) is added as follows:

§ 7.5 Procedures

* * * * *

(b) *Time limit on appeal.* * * *

(3) A national who has been subject of an adverse decision under 61.1(a) of this Chapter shall be entitled to appeal the decision to the Board within 30 days after receipt of notice of such decision.

* * * * *

4. Sections 7.8 through 7.11 are redesignated as §§ 7.9 through 7.12 and a new § 7.8 is added as follows:

§ 7.8 South African Fair Labor Standards Cases

(a) Scope of Review—With respect to appeals taken from the Assistant Secretary for African Affairs denying assistance to U.S. nationals operating in South Africa which do not comply with the Fair Labor Standards outlined in 61.2 of the Chapter, the Board's review except as provided in paragraph b of this section shall be limited to the record on which the Assistant Secretary's decision was based.

(b) Admissibility of Evidence—the Board shall not receive or consider evidence or testimony not presented pursuant to §§ 63.3(a) or 63.3(b) of this chapter unless it is satisfied that such evidence was not available or could not have been discovered by the exerciser of reasonable diligence prior to entry of the decision of the Assistant Secretary for African Affairs.

Dated: February 26, 1986.

Alan G. James,

Chairman, Board of Appellate Review.

[FR Doc. 86–4865 Filed 3–6–86; 8:45 am]

BILLING CODE 4710–06–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 166

[CGD 86–008]

Port Access Routes; Approach to Mobile, AL

Correction

In FR Doc. 86–4267 beginning on page 6923 in the issue of Thursday, February 27, 1986, make the following corrections:

On page 6923, second column, second paragraph, under "*Longitude*", "8830°" should read "88°" in all three lines.

BILLING CODE 1505–01–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A–4–FRL–2980–4; NC–013–014]

Approval and Promulgation of Implementation Plans; North Carolina

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: In this action, EPA is proposing to approve revisions to the North Carolina State Implementation Plan for Air Quality which were submitted by the North Carolina Division of Environmental Management on March 18, 1985, and April 15, 1985. These revisions include: the addition of control standards for three Volatile Organic Compound (VOC) source categories; the addition of test methods for VOC sources; the deletion of mandatory source registration; a clarification of how to determine allowable particulate emissions from existing fuel and wood burning indirect heat exchangers when new boilers are added to a site; an explanation of how to correct to twelve percent oxygen when determining emissions from incinerators; a new regulation for controlling mercury emissions; and additional permit application provisions. Most of the regulation changes are minor in nature and serve merely to update the North Carolina code.

DATES: To be considered, comments must be received on or before April 7, 1986.

ADDRESSES: Copies of the State's submittals are available for review during normal business hours at the following locations:

Air Quality Section, Division of Environmental Management, North

Carolina Department of Natural Resources and Community Development, Archdale Building, 512 N. Salisbury Street, Raleigh, North Carolina 27611;
Air Programs Branch, U.S. Environmental Protection Agency, Region IV, 345 Courtland Street, N.E., Atlanta, Georgia 30365.

FOR FURTHER INFORMATION CONTACT: Janet Hayward of the Region IV EPA Air Programs Branch, at the above address and following phone (404) 881-3286 or (FTS) 257-3286.

SUPPLEMENTARY INFORMATION: On March 18, 1985, and April 15, 1985, the North Carolina Division of Environmental Management submitted numerous regulation changes and nonregulatory revisions to the North Carolina State Implementation Plan (SIP). These submittals contained certification that the revisions were preceded by adequate notice and a public hearing. EPA is proposing to approve these revisions, as submitted on the above dates. All interested persons are invited to comment on this action; comments received within 30 days of the publication of this notice will be considered by EPA. A discussion of these revisions and the basis for EPA action now follows:

Submittal of March 18, 1985

• Regulation 15 NCAC 2D.0606 (Other Coal or Residual Oil Burners) was amended to correct a cross reference. The regulation previously referenced 15 NCAC 2D.0603 (Sources Covered by New Source Performance Standards), which has been repealed. Regulation 15 NCAC 2D.0524 (New Source Performance Standards) was substituted for the repealed 15 NCAC 2D.0603.

• Regulation 15 NCAC 2D.0939 (Determination of Volatile Organic Compound Emissions) was amended by adding three test methods for quantifying VOC emissions.

• Regulation 15 NCAC 2D.0943 (Synthetic Organic Chemical and Polymer Manufacturing); 2D.0944 (Manufacturing of Polyethylene, Polypropylene and Polystyrene); and 2D.0945 (Petroleum Dry Cleaning) are new regulations which were adopted to control additional sources of volatile organic compounds. The rules are consistent with the Group III Control Technology Guideline Documents for those source categories. The regulations in Section 2D.0900 are only mandatory for sources in Mecklenburg County (the State's only nonattainment area for ozone) which have the potential to emit 100 tons per year or more of VOCs. There are presently no sources in Mecklenburg County to which these three rules apply.

• Also included in the March 18, 1985, submittal were revisions to regulation 2D.0524 (New Source Performance Standards) and 2D.0525 (National Emission Standard for Hazardous Air Pollutants). North Carolina revised their rules by adding six New Source Performance Standards (NSPS) and two National Emission Standards for Hazardous Air Pollutants (NESHAP). They also requested delegation of authority for implementing and enforcing the NSPS and NESHAP for these source categories. A letter delegating this authority to the State was signed by Charles R. Jeter, Regional Administrator, on April 2, 1985. The delegation was announced in the **Federal Register** on August 1, 1985 (50 FR 31182).

Submittal of April 15, 1985

• Regulation 15 NCAC 2D.0202 (Registration of Air Pollution Sources) was amended to require sources to register only when requested to do so by the State. In the past, registration was mandatory for all sources of air pollution, but this procedure is no longer necessary because the State requires virtually all sources to have permits. Permit applications contain essentially the same information contained in the registration form. To eliminate this unnecessary duplication, North Carolina has eliminated the requirement for all sources to register.

• Regulation 15 NCAC 2D.0501 (Compliance with Emission Control Standards) was amended to remove the requirement for mandatory source registration and to correct a cross reference. Test methods for mercury and for VOC's were also added and updated.

Revisions to Subparagraph (f)(1)(A) of regulation 2D.0501 were also submitted on April 15, 1985. EPA will take action on the changes to 2D.0501(f)(1)(A) in a separate **Federal Register** notice.

• Regulation 15 NCAC 2D.0503 (Control of Particulates from Fuel Burning Indirect Heat Exchangers) and 2D.0504 (Particulates from Wood Burning Indirect Heat Exchangers) were amended to clarify how allowable particulate emissions from existing boilers are determined when a new boiler is added to the site.

• Regulation 15 NCAC 2D.0505 (Control of Particulates from Incinerators) was amended to explain how to correct to twelve percent carbon dioxide when determining the amount of particulate emissions from incinerators.

• Regulation 15 NCAC 2D.0537 (Control of Mercury Emissions) is a new regulation. It limits the emissions of mercury to 2300 grams per day from any plant site. It applies to all sources of mercury not covered by other regulations, and is identical to the national emission standard for mercury, which is found in 40 CFR 61.52.

• Regulation 15 NCAC 2D.0603 (Applications) was amended to allow the State to request information from a source (in addition to what is required on the permit application) when it is necessary to properly evaluate that source's application for a permit. New source impact analyses and permit applications, for sources proposed to be located in nonattainment areas, are now available for public inspection. The public also has the opportunity to request a public hearing on such permit applications and impact analyses.

Further details pertaining to these regulation changes are contained in the technical support document, which is available for public inspection at EPA's Regional Office in Atlanta, Georgia.

Proposed Action

EPA proposes to approve the above regulation changes which were submitted to EPA on March 18, 1985, and April 15, 1985.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

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

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Particulate matter, Hydrocarbons, Intergovernmental relations.

Authority: 42 U.S.C. 7401-7642.

Dated: December 18, 1985.

John A. Little,

Deputy for Regional Administrator.

[FR Doc. 86-5009 Filed 3-6-86; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 52

[A-10-FRL-2980-8]

Approval and Promulgation of State Implementation Plan; Alaska

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: By this Notice, EPA is proposing approval of the Alaska State Implementation Plan (SIP) revisions pertaining to the carbon monoxide attainment plan for the Fairbanks area. The SIP revisions were submitted by the Alaska Department of Environmental Conservation, (ADEC) September 29, 1982 and updated on May 31, 1985. The plan relies heavily on the aggressive implementation of a mandatory vehicle inspection and maintenance (I/M) program. In addition, EPA is proposing to approve the SIP elements dealing with reasonably available control measures (RACM), basic transportation needs, and conformity. Upon final approval by EPA, the CO plan will become a federally enforceable part of the SIP as required by the Clean Air Act.

EPA is also proposing to remove all conditions of approval on the 1979 Fairbanks CO Plan as published in the December 30, 1980 **Federal Register** (45 FR 85744).

DATE: Comments must be postmarked on or before April 7, 1986.

Comments should be addressed to: Laurie M. Kral, Air Programs Branch, M/S 532, Environmental Protection Agency 1200 Sixth Avenue, Seattle, Washington 98101.

ADDRESSES: Copies of the materials submitted to EPA may be examined during normal business hours at:

Air Programs Branch (10A–82–17), Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101;

State of Alaska, Department of Environmental Conservation, 3220 Hospital Drive, Juneau, AK 99871.

FOR FURTHER INFORMATION CONTACT: Loren C. McPhillips, Air Programs Branch, M/S 532, Environmental Protection Agency, 1200 Sixth Avenue, Seattle, Washington 98101. Telephone: (206) 442–4233, FTS: 399–4233.

SUPPLEMENTARY INFORMATION:

I. Background

On December 30, 1980 (45 FR 85744), EPA conditionally approved the first phase of the Fairbanks carbon monoxide (CO) State Implementation Plan (SIP). At that time an extension of the attainment date for the CO standard to December 31, 1987, was also approved.

The second phase of the Fairbanks CO SIP was officially submitted to EPA on September 29, 1982, amd was further updated by the Alaska Department of Environmental Conservation (ADEC) on January 5, 1983 and November 15, 1983. The 1982 SIP revision indicated that a 45.2 percent reduction in 1979 baseline emissions is necessary in order to attain the eight-hour CO standard of 9 parts per million (ppm) prior to December 31, 1987. Part of this reduction would come from the Federal Motor Vehicle Emission Control Program, while another portion of the required reduction (21 percent) was to come from a tentative mandatory vehicle (I/M) program. The 1982 SIP revision noted that EPA would not take final action to approve the SIP until ADEC either fully committed to implement I/M or adopted other equally effective control measures.

However, on January 18, 1984 (49 FR 2119), EPA changed its original position, disapproving the Fairbanks plan because state and local officials failed to demonstrate adequate commitment to the I/M program. Since then, state and local officials have adopted appropriate I/M legal authority and have sufficiently committed to the I/M program which began July 1, 1985.

II. Plan Review

A. Approvable elements of the SIP

EPA is proposing to approve the transportation control strategies that were contained in the original SIP. The following is a list of control measures that still contain adequate commitments for implementation or continued implementation:

1. Federal Motor Vehicle Emission Control Program. (FMVECP).
2. Transit Improvements.
3. Traffic Improvements.
4. Vehicle Preheating.
5. District (Centralized) Heating System.
6. Inspection and Maintenance (I/M) program.

The commitment to these measures ensures that the requirements for basic transportation needs are satisfied and that improved mobility will be emphasized. Therefore, EPA is proposing to approve the element dealing with basic transportation needs as well as the six elements listed above.

Conformity will be determined in accordance with the procedures set forth in the SIP. After determining conformity of the plans and programs, all federal aid projects will still be evaluated in accordance with procedures specified in the National Environmental Policy Act. If the analysis indicates that the project will create new violations or exacerbate existing violations, then the project will not be constructed without modifications to the project or plan sufficient to maintain reasonable further progress toward attainment.

Therefore, EPA is also proposing to approve the element of the plan dealing with conformity of federal actions with the SIP. A detailed discussion of these approvable elements is contained in the February 3, 1983 (48 FR 5133) **Federal Register.**

B. Attainment Demonstration

As mentioned previously, the 1982 SIP revision indicated that a 45.2 percent reduction in 1979 baseline emissions is necessary in order to attain the eight-hour CO standard of 9 parts per million prior to December 31, 1987. That goal would be reached with the current plan. Since the original air quality analysis is somewhat dated, EPA also conducted an analysis based upon the most recent three years of monitoring data. That analysis also demonstrated attainment prior to December 31, 1987, based upon the aggressive implementation of a mandatory I/M program, the continuation of the head bolt heater program and the FMVECP, and partial credit from the anti-tampering program. Accordingly, EPA is proposing approval of the attainment demonstration contained in the original SIP. If attainment is not reached by the statutory deadline, re-analysis and additional controls may be required.

C. Inspection and Maintenance Program

Fairbanks began its I/M program on July 1, 1985. Owners of model year 1975 and newer cars and trucks are required to have their vehicles annually inspected for emissions problems, or upon initial registration in the state. The model year of vehicles subject to the program changes over time because inspections are not required for vehicles that are more than 15 years old. Vehicles determined to have excessive pollution levels are required to be repaired prior to renewal of registration by the Alaska Division of Motor Vehicles (DMV). A seasonal waiver is also available for those vehicles that are not driven during the CO season. Local officials have also adopted a tampering check as part of the I/M program. Basically, the tampering test includes a visual check for the catalytic converter, fuel restrictor, air pump, PCV valve, hose and wire connectors, and a plumbtesmo (lead) test.

Since the program is decentralized, inspections required under the I/M program must be made at a Certified I/M Station. Up to a $35.00 fee may be charged for the inspections, and vehicles which fail the inspection because of defects in their emission control system must be repaired and then retested by a Certified I/M Station. The program incorporates the use of Bar-84 analyzers which are calibrated on a regular basis.

Repairs required under the I/M Program may be performed by anyone, including vehicle owners. However, incentives are provided for the repair of vehicles by Certified I/M Mechanics working at Certified I/M Stations. Except for certain Fleet Operator owned vehicles, vehicle owners are guaranteed of either passing the retest or receiving a waiver if they have repairs performed at a Certified I/M Station. A cost waiver is available if repairs exceed $150.00 during the first year. The cost limit will gradually be increased to $500.00 by January 1, 1987. Work done or parts purchased and installed by vehicle owners or at uncertified facilities will not count toward this cost ceiling. It should be noted that since the cost waiver provisions apply to the required replacement of emissions control devices, the actual effectiveness of the tampering check is uncertain.

The Fairbanks North Star Borough (FNSB) is responsible for conducting quality assurance tests at the individual stations. Currently there are approximately 30 certified stations. The FNSB is also responsible for collecting data and ensuring program effectiveness.

D. Removal of Previous Conditions

In response to EPA's conditions of approval on the 1979 SIP (December 30, 1979 (45 FR 85744), FNSB has included in the 1982 SIP revision: (1) An expanded 1980 CO emission inventory to include emissions from off-street parking, (2) verification that population projections for air and water planning activities are consistent, and (3) a procedure for determining conformity of federal projects with the SIP.

III. Proposed Action

The EPA proposes (1) to approve the Fairbanks I/M program and the attainment demonstration portions of the plan; (2) to approve the SIP elements contained in the Fairbanks CO attainment plan which was submitted to EPA on September 29, 1982, and January 5, 1983, dealing with basic transportation needs conformity and other control measures including I/M; and (3) to remove the three conditions on the EPA approval of the 1979 Fairbanks CO SIP which EPA imposed on December 30, 1980 (45 FR 85744).

Interested parties are invited to comment on all aspects of this proposed approval of the Alaska SIP revision. Comments should be submitted in triplicate, to the address listed in the front of this Notice. Public comments postmarked by April 7, 1986 will be considered in any final action EPA takes on this proposal.

Under 5 U.S.C. 605(b), the Administrator has certified that SIP approvals do not have significant economic impact on a substantial number of small entities (46 FR 8709).

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

Authority: 42 U.S.C. 7401–7642.

List of Subjects in 40 CFR Part 52

Air pollution control, Ozone, Sulfur oxides, Nitrogen dioxide, Lead, Particulate matter, Carbon monoxide, Hydrocarbons, Intergovernmental relations, Reporting and recordkeeping.

Dated: September 20, 1985.

Ernesta B. Barnes,

Regional Administrator.

[FR Doc. 86–5014 Filed 3–6–86; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 81

[A–3–FRL–2980–6]

Designation of Areas for Air Quality Planning Purposes; Commonwealth of Pennsylvania; Section 107 Redesignation

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve a request from the Commonwealth of Pennsylvania to redesignate the attainment status of two areas within Allegheny County with respect to the National Ambient Air Quality Standards (NAAQS) for Total Suspended Particulates (TSP) pursuant to section 107 of the Clean Air Act and the implementing regulations at 40 CFR Part 81.

The request is to revise the attainment status of one area from "Cannot Be Classifed" to "Better than National Standards," and for a second area the requested revision is from "Does Not Meet Primary Standards" to "Does Not Meet Secondary Standards." The requests for redesignation are based upon eight consecutive quarters of ambient air monitoring data.

The intent of this notice is to discuss the results of EPA's review of the redesignation request and to solicit public comment on the proposed actions.

DATE: Comments must be received on or before April 7, 1986.

ADDRESSES: Copies of the documents relevant to these proposed redesignations are available for public inspection during normal business hours at:

U.S. Environmental Protection Agency, Region III, Air Programs Branch, 841 Chestnut Building, Philadelphia, PA 19107, Attn: Denis Lohman;

Department of Environmental Resources, Bureau of Air Quality Control, 200 North 3rd Street, Harrisburg, PA 17120, Attn: Gary Triplett;

Allegheny County Health Department, Bureau of Air Pollution Control, 301 Thirty-ninth Street, Pittsburgh, PA 15201, Attn: Roger Westman.

All comments on the proposed redesignations submitted within 30 days of publication of this notice will be considered. Comments should be directed to Mr. Glenn Hanson, Chief PA/WV Section, EPA, Region III, 841 Chestnut Bldg., Philadelphia, PA 19107, EPA Docket Nos. 107–PA–25, 107–PA–26, and 107–PA–27.

FOR FURTHER INFORMATION CONTACT: Denis Lohman (3AM11) at the EPA, Region III address above or call (215) 597–8375.

SUPPLEMENTARY INFORMATION: Under Section 107(d) of the Clean Air Act, the Administrator of EPA has promulgated the NAAQS attainment Status for all areas within each State (*See* 43 FR 8962 (March 3, 1978)). These area designations are subject to revision whenever sufficient data become available to warrant a redesignation.

Background

The Pennsylvania Department of Environmental Resources (PaDER) endorsed and submitted to the U.S. Environmental Protection Agency (EPA) requests, initiated by the Allegheny County Bureau of Air Pollution Control (BAPC), to revise the Total Suspended Particulate (TSP) attainment status designation for two areas within Allegheny County under Section 107 of the Clean Air Act and 40 CFR Part 81. In this notice the review of each area will be discussed.

A. Area #1

Area #1 is a three-mile wide strip within a perpendicular distance two miles north and east of the Ohio river center line, and one mile south and west of the Ohio river center line, terminating at the I–79 highway bridge and at the Beaver County line. This area is now designated as "unclassifiable" with respect to the NAAQS for TSP.

At the time of the designation, there were no TSP monitors in this area. The only major source of TSP in the area—Philips Power Station—had an

undetermined impact upon air quality. The Philips station has a stack height which, at 104 meters, is greater than the de minimis good engineering practice (GEP) height of 65 meters. However, the GEP stack height calculated by the formula of the EPA stack height regulation promulgated on July 8, 1985 (50 FR 72892) is 105 meters so the actual stack height is slightly less than the maximum creditable height. The TSP emission limit for the Philips station is the county established limit for fuel burning or cumbustion equipment (Section 402 of Allegheny County Article XX). The allowable emission rate of 0.08 lbs (TSP)/MMBtu is less than the new source performance standard of 0.10 lbs/MMBtu. There were, in addition, major sources upriver and downriver from the area, with uncertain impact upon the air quality.

The BAPC installed two special purpose monitors in the area to determine the existing air quality. One monitor was placed in Leetsdale and a second monitor was placed in Sewickley. The BAPC has certified that both sites are representative for the purpose of attainment designation.

A site description form for Sewickly was reviewed. It indicates that the station satisfies the requirements of 40 CFR Part 58.

No exceedance of any TSP standard has been recorded at either monitoring site. Sources in the area cannot significantly increase emissions under the existing rules and regulations which have been approved by EPA. Although the sources in adjacent areas could operate at higher levels of operation, their impact in Area #1 is expected to be minor because of their comparatively long distance from the area.

Therefore, after reviewing the data submitted and considering the information summarized above, EPA is proposing to approve this redesignation request.

B. Area #2

Area #2 is defined as the circular area within a 0.5 mile radius of the Greater Pittsburgh Airport monitor. This monitor is on the roof of the main terminal building.

This area is now designated as "Does Not Meet Primary Standards" with respect to the NAAQS for TSP. The nonattainment classification was requested because of high annual values of TSP recorded in 1979 and 1980. At that time, the airport terminal was undergoing a major construction project. The construction project was completed in 1980. The average TSP values since then have been well below the primary standard.

In both the first and second quarters of 1984 a daily value of TSP in excess of the secondary standard (150 micrograms per cubic meter) was recorded. Although these were the only exceedances since 1980, the second occurrence in one year constitutes a violation of the secondary standard. For this reason, the revised designation is requested to be "Does Not Meet Secondary Standards."

The site overlooks the central boarding and deplaning area and is probably affected by re-entrained dust caused by jet exhaust wash at loading gates. The nearest such gate is 35 feet below and 75 feet away from the monitor. The effect of the jet exhaust re-entrainment is considered to bias the TSP readings toward high values. Due to the very local influences at the Greater Pittsburgh Airport, the monitor is only representative at a middle scale (up to 0.5 km).

The airport is located in the western part of the county in an area of low population density. The area around the monitor site is generally level and is either devoted to airport operations or associated commercial and light industrial activities. There are no large point sources of TSP within a radius of 7500 feet. The largest sources of TSP near the monitor are Route 60, 1100 feet north of the monitor site; the driveways within the airport; and the reentrained dust from the movements of airplanes near the terminal.

Because there are no significant combustion or process sources generating particulate matter, the majority of the TSP, in excess of background, being measured at the monitor is attributed to re-entrained dust by the automotive and aviation traffic. At the present time the traffic is sufficiently great and constant enough that the roadways and runways are virtually in a perpetually stirred condition except for unusual events such as heavy rain or snowfall. Consequently the "source" for TSP is relatively insensitive to changes in traffic density. The principal reasons for day to day variations in TSP measurements are weather related. The wind direction determines the upwind "source" area and the wind speed determines the dilution factors. Therefore, increases in traffic are not expected to cause increases in monitored TSP.

After reviewing the data submitted and considering the information summarized above, EPA is proposing to approve the redesignation request.

Proposed Action

EPA is proposing to approve the two requests for redesignation of two areas within Allegheny County. The unclassifiable Area #1 would be designated as "Better Than National Standards" for TSP. The nonattainment Area #2 would be designated as "Does Not Meet Secondary Standards".

The public is invited to submit, to the EPA, Region III address stated above, comments on either of the proposed redesignations. The Administrator's decision to approve or disapprove the proposed redesignations will be based upon the comments received and on a determination of whether or not the requirements of section 107 of the Clean Air Act have been met.

Administrative Procedures

Under 5 U.S.C. 605(b), the Administrator has certified that redesignations do not have a significant economic impact on a substantial number of small entities (*See* 46 FR 8709).

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

List of Subjects in 40 CFR Part 81

Air pollution control, National Parks, Wilderness areas.

Authority: 42 U.S.C. 7401–7462.

Dated: November 11, 1985.

James M. Seif,

Regional Administrator.

[FR Doc. 86–5006 Filed 3–6–86; 8:45 am]

BILLING CODE 6560–50–M

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40 CFR Part 81

[A–4–FRL–2980–5, SC—014]

Designation of Areas for Air Quality Planning Purposes; Redesignation of an Ozone Nonattainment Area in South Carolina

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: EPA today proposes to approve the request by South Carolina to redesignate York County from nonattainment to attainment for ozone. The redesignation of York County to attainment is based on three years of ambient monitoring data showing a calculated expected exceedance of less than 1.0 and implementation of an EPA-approved control strategy.

The public is invited to submit written comments on this proposed action.

DATE: To be considered, comments must reach us on or before April 7, 1986.

ADDRESSES: Written comments should be addressed to Jill Thomas of EPA Region IV's Air Programs Branch (see EPA Region IV address below). Copies of the materials submitted by South Carolina may be examined during normal business hours at the following locations:

Environmental Protection Agency, Region IV, Air Programs Branch, 345 Courtland Street NE., Atlanta, Georgia 30365

Bureau of Air Quality Control, South Carolina Department of Health and Environmental Control, 2600 Bull Street, Columbia, South Carolina 29201.

FOR FURTHER INFORMATION CONTACT: Jill Thomas, Air Programs Branch, EPA Region IV, at the above address and telephone number 404/881-4253 or FTS 257-4253.

SUPPLEMENTARY INFORMATION: In the March 3, 1978, **Federal Register** (43 FR 8962), EPA designated York County, South Carolina as nonattainment for ozone. This designation was based on ambient air quality monitoring data which revealed that York County had experienced oxidant violations. Several areas in South Carolina were designated nonattainment for ozone and, therefore, the State was required to revise their state implementation plan (SIP) for ozone. South Carolina drafted and adopted statewide regulations for controlling volatile organic compound (VOC) emissions from stationary sources in nonattainment and unclassified areas. Through the Federal Motor Vehicle Control Program (FMVCP) and implementation of the VOC regulations, South Carolina demonstrated attainment of the ozone standard in the urban nonattainment areas. Because York County was a non-urban area, a demonstration of attainment of the ozone standard was not required. EPA approved South Carolina's accommodative ozone SIP on January 29, 1980.

South Carolina has requested that EPA change the attainment status of York County from nonattainment to attainment for ozone. In order to redesignate a nonattainment area, EPA policy requires that the most recent three years of ozone data show an expected exceedance calculation of less than or equal to 1.0. The most recent eight quarters of quality assured ambient air data may suffice provided that no exceedances have occurred. In addition, the data must be accompanied by a demonstration of implementation of an EPA-approved control strategy. South Carolina has submitted ambient air quality data collected at the Chester Airport monitoring site located in Chester County. This monitor was moved from York County on March 1, 1980, in order to conform to 40 CFR Part 58 siting criteria. The Chester County site is located approximately 16 miles southwest of the former York County site. The move was reviewed by EPA and determined to be representative of York County.

South Carolina's request for redesignation is based on three years of ambient ozone data. Specifically, the most recent three years of air quality data (1982, 1983, and 1984) show the number of expected exceedances to be less than or equal to 1.0, as is summarized below:

	Exceedances (ppm)	Number of expected exceedances [1]	NAAQS ozone (ppm) [2]
Chester Airport:			
1982	.125	0.67	12
1983	.142		
1984	None		
(Total: 2 exceedances)			

[1] Three year average.
[2] Not to be exceeded more than once a year

Furthermore, York County has experienced no ozone exceedances during the first three quarters of 1985.

For a more detailed discussion, please refer to the Technical Support Document which is available for inspection at the EPA Region IV office.

Therefore, on the basis of three years of air quality data showing attainment and evidence of an implemented EPA-approved control strategy, EPA proposes to approve the redesignation of York County from ozone nonattainment to attainment.

Proposed Action

EPA is today proposing to approve the redesignation of the York County ozone nonattainment area on the basis of three years of air quality data and an EPA-approved control strategy.

The public is invited to participate in this rulemaking by submitting written comments on these proposed actions.

Under 5 U.S.C. 605(b), I certify that area redesignations do not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709).

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

List of Subjects in 40 CFR Part 81

Air pollution control, National parks, Wilderness areas.

Authority: 42 U.S.C. 7401-7642.

Dated: November 27, 1985.

Jack E. Ravan,

Regional Administrator.

[FR Doc. 86-5011 Filed 3-6-86; 8:45 am]

BILLING CODE 6560-50-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1039

[Ex Parte No. 346 (Sub-20)]

Exemption From Regulation; Storage Leases

AGENCY: Interstate Commerce Commission.

ACTION: Notice of Proposed Rulemaking and Exemption.

SUMMARY: The Commission proposes to exempt from regulation under 49 U.S.C. 10505 the leasing of surplus railroad equipment for storage. This would enable rail carriers to compete more effectively with private car companies in the leasing of idle cars for storage purposes. In Ex Parte No. 346 (Sub-No. 12), *Petition to Exempt Storage Leases of Norfolk and Western* (not printed), served March 9, 1983, the Commission exempted the storage leases of covered hopper cars by Norfolk and Western Railway Company. This proposal would expand that exemption to cover storage leases for all surplus equipment for all carriers.

DATE: Comments are due April 7, 1986.

ADDRESS: Send an original and 10 copies of comments referring to Ex Parte No. 346 (Sub-No. 20) to: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

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

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

This action will not significantly affect either the quality of the human environment or energy conservation.

List of Subjects in 49 CFR Part 1039

Railroads, Exemption, Leases.

Dated: February 28, 1986.

By the Commission. Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

James H. Bayne,

Secretary.

Appendix

Title 49 of the CFR would be amended as follows:

PART 1039—[AMENDED]

1. The authority citation for 49 CFR Part 1039 would continue to read as follows:

Authority: 49 U.S.C. 10321, 10505, 10713, 10762, 11105; 5 U.S.C. 553.

2. A new § 1039.20 would be added to read as follows:

§ 1039.20 Storage leases.

Storage leases for all surplus equipment for all carriers are exempt from the provisions of 49 U.S.C. subtitle IV. Nothing in this exemption should be construed to affect our jurisdiction under section 10505 or our ability to enforce this decision or any subsequent decision made under authority of this exemption section. This exemption shall remain in effect, unless modified or revoked by a subsequent decision of this Commission.

[FR Doc. 86-5042 Filed 3-6-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Proposed Reclassification of Ranched Nile Crocodile Populations in Zimbabwe From Endangered to Threatened by Similarity of Appearance

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: The U.S. Fish and Wildlife Service proposes to reclassify ranched populations of the Nile crocodile in Zimbabwe from endangered to threatened by "similarity of appearance" status under section 4 of the Endangered Species Act, 16 U.S.C. 1531 *et seq.* (hereinafter the "Act" or "ESA"). This change is supported by available biological information on the status of these populations of the species and recent changes in its status from Appendix I to II on the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES). The wild population of Nile crocodiles in Zimbabwe would not be affected. If this proposal is made final, the Service would be concluding that the ranched populations of Nile crocodiles in Zimbabwe have biologically recovered; live animals or whole skins of ranched Nile crocodiles originating in Zimbabwe would then be imported, as long as the ESA regulations governing permits for species listed as threatened by similarity of appearance and the laws of Zimbabwe are satisfied, and CITES requirements are met for trade in Appendix II species.

DATES: Comments from the Government of Zimbabwe and all other interested parties must be received by May 6, 1986. Public hearing requests must be received by April 21, 1986.

ADDRESSES: Comments and materials concerning this proposal should be sent to the Associate Director—Federal Assistance/Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, DC 20240. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the Service's Office of Endangered Species, 1000 North Glebe Road, Suite 500, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT: Mr. John L. Spinks, Jr., Chief, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235-2771).

SUPPLEMENTARY INFORMATION:

Background

The Nile crocodile, *Crocodylus niloticus*, is one of the largest crocodilians, second in six only to the slatwater crocodile, *Crocodylus porosus*. Adults may weight up to 1000 kg, and reach a length of 5 m (Pooley and Gans 1976). Like other crocodilians, the species is behaviorally sophisticated, and many aspects of its ecological requirements are reasonably well known as a result of studies in various parts of its range (see Cott 1961, Modha 1967, Watson *et al.* 1971). Historically, the species occurred along the Mediterranen coast as far west as Tunis and as far north as Syria (Pooley and Gans 1976), although today it is confined to the lower Nile, tropical and southern Africa, and Madagascar.

Throughout much of its range, the Nile crocodile has been eliminated, or populations have been seriously, reduced, due to hunting for the hide industry, killing animals because of their potential threat to humans and livestock, a mistaken notion that crocodilians compete with fishermen for desired fish species, or habitat alteration. The Nile crocodile was listed as endangered in the **Federal Register** of June 2, 1970 (35 FR 8495) because of the wide spread decline of the species from overharvesting throughout its range. In some areas, including Zimbabwe, habitat alteration has increased available habitat through the creation of lakes and lagoons from damming swift flowing rivers. In Africa today, some populations are apparently increasing or at least stabilized, while others continue to decline (Pooly 1982), the most serious threat continues to come from the uncontrolled exploitation of wild populations for the hide industry.

A number of African countries, however, now recognize the Nile crocodile as a valuable part of their natural heritage, both in terms of the service it plays in its ecological role, as well as a source of economic benefit from the tourist industry and in the potential for ranching animals for a controlled harvest of hides. Various measures have been used, including complete protection, to conserve populations, and most countries now recognize the need for sound biological data prior to instituting management, even if their present resources restrict their ability to conduct the required studies. Of those countries that have started ranching operations, Zimbabwe appears to have the best data base on native populations. Other nations; particularly Zambia, Mozambique, South Africa, and Botswana are presently gathering data on their crocodilian populations in connection with established ranches or ranching proposals in those countries.

In Zimbabwe, the Nile crocodile inhabits streams and lakes, primarily under 1500 m in altitude, in the Zambezi River watershed (Pooley 1982). In addition, sizeable populations occur in Lake Kariba. Research has centered on the Lake Kariba population to determine numbers of animals, movement patterns, and ecological requirements; counts in this area alone estimate 29,000±4,000 animals. Additional surveys throughout the range of the Nile crocodile raise the estimate to 50,000 within the country (Convention of International Trade in Endangered Species of Wild Fauna and Flora, CITES 1983). Information on research within Zimbabwe may be found in CITES (1983) and Hutton (1982). The Zimbabwe Wildlife Department considers the species "out of danger" (CITES 1983).

At present, there are five crocodile ranches in Zimbabwe. These are: (1) Kariba Crocodile Farm (Pvt.) Ltd., at Kariba, established in 1965; (2) Binga Crocodile Rearing Station at Binga (on Lake Kariba), established in 1967; (3)

Spencer Creek Crocodile Ranch (Pvt.) Ltd., at Victoria Falls, established in 1971; (4) Sengwa River Mouth Rearing Station at Sengwa Mouth, Lake Kariba, established in 1977; and (5) Rokari Crocodile Ranch on Lake Kariba, established in 1981.

Ranches follows a set of general procedures to rear crocodiles to a size that produces marketable skins (CITES 1983). First, a ranch must obtain a permit from the Department of National Parks and Wildlife Management to collect eggs from wild crocodile nests. Although an entire clutch can be taken, the Department limits wild egg collection to designated areas; cumulatively, for all ranches, egg collection has been limited to under 10,000 per year.

Eggs are transported in styrofoam containers from wild nests to the ranch where they are incubated in boxes with moist vermiculite. Hatchlings are placed in holding pens for at least 24 hours and are then transferred into 10–15 m long x 1.5 m wide x 1 m deep concrete hatchling pens. Each pen has two ponds which house 200–300 hatchlings. When crocodiles become 9–10 months old, they are placed into 20 x 8 x .75 m rearing pens where they remain until their skins are harvested. Animals are cropped when they reach approximately 1.5 m in length. The skins are salted, rolled, and stored for dispatch to tanneries; heads and feet are sold as tourist curios, carcasses are used for food for other ranched crocodiles, and some meat is sold in restaurants.

In 1982, these ranches held 10,346 hatchlings, 12,742 slaughter stock, and 149 breeding stock. Although eggs collected under permit from wild nests supply the bulk of the animals for the ranches, attempts are being made to supply future needs for eggs from breeding stocks. In 1981, Kariba and Spencer ranches produced between 30–50 percent of the total eggs from captive breeding stocks (CITES 1983).

In 1981, Zimbabwe exported a total of 2,890 skins to France; it is expected that most future exports will continue to be made to European countries.

The Fourth Meeting of the Conference of the Parties to CITES occurred on April 19–30, 1983, in Gaborone, Botswana. At the meeting, the Parties considered proposals to amend the appendices. The proposals were listed in three **Federal Register** notices (47 FR 51772, November 17, 1982, and 47 FR 57524, December 27, 1982, for proposals by the United States, and 48 FR 9545, March 7, 1983, for proposals by other Parties). Included among the proposals was that of Zimbabwe to reclassify the ranched Nile crocodiles within that country from Appendix I to II. This proposal (Document 4.39; summary report considered at Plen. 4.10) was accepted by the Parties. The Service published notice of the change in CITES status for Zimbabwe's ranched population of Nile crocodiles in the **Federal Register** of July 5, 1983 (48 FR 30732). The change in CITES classification does not affect Zimbabwe's wild crocodiles, which remain on Appendix I.

After considering the documentation provided by Zimbabwe during the CITES meeting in Botswana, as well as the references provided in the "Literature Cited" section of this proposed rule, the Service no longer considers the ranched population of Nile crocodiles in Zimbabwe to be "in danger of extinction throughout all or a significant portion of its range" (i.e., endangered). This finding is based on substantial increases in the total number of breeding crocodiles on ranches and ranch egg production (see Pooley 1982, CITES 1983, and Caldwell 1983). The captive ranched populations of the species in Zimbabwe appear to have biologically recovered to the point where reclassification as threatened by similarity of appearance is warranted. This proposed rule recognizes the improved status of the ranched population, and will allow, if approved as a final rule, regulated trade of live animals and whole skins of Nile crocodiles ranched in Zimbabwe as long as CITES requirements are met and the laws of Zimbabwe are followed. It will not change protection given to the wild population of *C. niloticus* in Zimbabwe and elsewhere in Africa as endangered. However, this final rule will probably enhance wild populations by reducing illegal poaching since a larger legal market will become available.

Regulations published at 50 CFR 424.11(d) state that a species may be delisted if it: (1) Becomes extinct, (2) recovers, or (3) if the original classificatin data were in error. The Service believes that the ranched population of *C. niloticus* has biologically recovered in Zimbabwe. Moreover, section 4(e) of the Endangered Species Act establishes the "similarity of appearance" concept by authorizing the treatment of a species (or subspecies or group of wildlife in common spatial arrangement) as an endangered or threatened species even though it is not otherwise biologically threatened with extinction if it is found:

(a) That the species so closely resembles in appearance an endangered or threatened species that enforcement personnel would have substantial difficulty in differentiating between listed and unlisted species;

(b) That the effect of this substantial difficulty is an additional threat to the endangered or threatened species; and

(c) That such treatment of an unlisted species will substantially facilitate the enforcement and further the policy of the Act.

Although the Service believes the ranched population of the Nile crocodile in Zimbabwe to be fully recovered biologically, it is being retained under the reclassified status of threatened due to similarity of appearance because Zimbabwe Nile crocodiles are hard to distinguish from other populations of the species. Therefore, any commercial trade in legally harvested ranched Zimbabwe Nile crocodiles must be in conformance with the Service's permit requirements for species listed by similarity of appearance (see 50 CFR 17.52), CITES requirements for Appendix II species (see CITES 1983), and the laws of Zimbabwe (see CITES 1983).

Although data suggest that wild populations are increasing in Zimbabwe (see CITES 1983), the Service believes that threats, such as illegal commercialization, still exist to wild populations in Zimbabwe. Therefore, the Service has separated ranched from wild Nile crocodile populations, and recommends reclassification to threatened by similarity of appearance for ranched populations in Zimbabwe, only.

Summary of Factors Affecting the Species

Section 4(a)(1) of the Act (16 U.S.C. 1531 *et. seq.*) and regulations (50 CFR Part 424) promulgated to implement the listing provisions of the Act set forth five factors to be used in determining whether to add, reclassify, or remove a species from the list of endangered and threatened species. These factors, and their applicability to ranched populations of the Nile crocodile in Zimbabwe, are as follows:

A. *The present or threatened destruction, modification, or curtailment of its habitat or range.* Ranched populations of Nile crocodiles are dependent on manmade habitats consisting mostly of concrete ponds that are surrounded by artificially maintained areas of trees and shrubs (see Background). As ranches become more self-sufficient (i.e., more eggs produced from captive animals), facilities will likely grow, thus increasing the amount of habitat. Additionally, juvenile survival rates should increase with improvements in captive feeding schmes (i.e., dietary mix).

The number of ranches has remained relatively constant since 1971 (see CITES 1983). However, the number of ranches could increase if efficiency and profit in production of crocodile skins continue to improve. Increases in the number of ranches will increase the amount of habitat of ranched Nile crocodiles in Zimbabwe.

B. *Overutilization for commercial, recreational, scientific, or educational purposes.* Commercial use of the ranched populations is strictly controlled (see section D. below), and ranched populations enhance populations in the wild by reducing illegal commercialization of wild animals. Overutilization, therefore, is not considered a threat to the ranched Nile crocodile in Zimbabwe. The prohibition of entry of animals, parts, or products from wild Nile crocodile populations in Zimbabwe will be unaffected if this rule is finalized.

C. *Disease or predation.* Not applicable to the status of ranched *C. niloticus* in Zimbabwe.

D. *The inadequacy of existing regulatory mechanisms.* Crocodiles in Zimbabwe are regulated through the development of an 11-point policy administered by the Department of National Parks and Wildlife Management (Zimbabwe Department of National Parks and Wildlife Management 1982, CITES 1983). Among the provisions of this policy are: (1) All crocodiles are fully protected in National Parks and conserved in all Safari Areas, (2) wild crocodiles will normally not be harvested for the skin industry, (3) wild eggs can be harvested only by permit, with the allowance for a 5 percent return of crocodiles to the wild, or for other conservation purposes, as appropriate, (4) problem crocodiles will be destroyed if relocation is not possible, (5) education is stressed about the importance and value of crocodiles, (6) strict control is maintained of the rearing stations, (7) permits are allowed for export only to persons who are managing and conserving the crocodile, and (8) live crocodiles can only be exported if the Department is satisfied that animals will be cared for under proper scientific and aesthetically acceptable conditions. Most of these regulations, with the exceptions of regulation of rearing stations and export of live animals, are internal management regulations designed to ensure that Nile crocodiles are managed and conserved as a renewable resource and valued part of Zimbabwe's wildlife heritage.

Zimbabwe, as a Party to CITES, is fully prepared to comply with Appendix II export requirements. All unworked skins legally exported by breeding/ranching operations are wet salted, cut in a specified manner, and are worked individually with a serially numbered plastic tag attached to the edge of the skin in a specified place. These tags are similar to those used in the U.S. on American alligator hides, and numbers are recorded on the export permit. Manufactured items will be identified through accompanying documentation which carries a security stamp. Samples of the export permit have been submitted to the CITES Secretariat, as well as copies of the security stamp to be affixed to all permits.

The Service believes that the regulations and policies of Zimbabwe are sufficient to ensure the survival of the ranched population and allow trade in live ranched Nile crocodiles and whole skins. The laws of Zimbabwe, coupled with CITES requirements, appear adequate to allow a change to threatened by similarity of appearance for ranched populations.

E. *Other natural or manmade factors affecting its continued existence.* Not applicable.

Effects of This Rule

If made final, this proposed rule will change the status of ranched populations of the Nile crocodile in Zimbabwe from its present endangered status to threatened by similarity of appearance. As such, those regulations specifically pertaining to threatened species (50 CFR 17.21 and 17.31) would be applicable; since endangered species regulations are already in effect, the proposed change has little additional effect with regard to permits. This is in accordance with regulations as specified in 50 CFR 17.51 ("Treatment as endangered or threatened"). The Service notes that 50 CFR 17.52 ("Permits—similarity of appearance") would now apply, and it is reprinted below in its entirety for reader convenience.

Section 17.52 Permits—similarity of appearance.

Upon recept of a complete application and unless otherwise indicated in special rule, the Director may issue permits for any activity otherwise prohibited with a species designated as endangered or threatened due to its similarity or appearance. Such a permit may authorize a single transaction, a series of transactions or a number of activities over a specified period of time.

(a) *Application requirements.* An application for a permit under this section must be submitted to the Director by the person who wishes to engage in the prohibited activity. The permit for activities involving interstate commerce of plants must be obtained by the seller; in the case of wildlife, the permit must be obtained by the buyer. The application must be submitted on an official application form (Form 3–200) provided by the Service, or must contain the general information and certification required by § 13.12(a) of this subchapter. It must include, as an attachment, all of the following information: documentary evidence, sworn affidavits, or other information to show species identification and the origin of the wildlife or plant in question. This information may be in the form of hunting licenses, hide seals, official stamps export documents, bills of sales, certification, expert opinion, or other appropriate information.

(b) *Issuance criteria.* Upon receiving an application completed in accordance with paragraph (a) of this section, the Director will decide whether or not a permit should be issued. In making his decision whether or not a permit should be issued. In making his decision, the Director shall consider, in addition to the general criteria, in § 13.21(b) of this subchapter, the following factors:

(1) Whether the information submitted by the applicant appears reliable;

(2) Whether the information submitted by the applicant adequately identifies the wildlife or plant in question so as to distinguish it from any endangered or threatened wildlife or plant.

(c) *Permit conditions.* In addition to the general conditions set forth in Part 13 of this subchapter, every permit issued under this section shall be subject to the following special conditions:

(1) If indicated in the permit, a special mark, to be specified in the permit, must be applied to the wildlife or plant,and remain for the time designated in the permit;

(2) A copy of the permit or an identification label, which includes the scientific name and the permit number, must accompany the wildlife or plant or its container during the course of any activity subject to these regulations.

(d) *Duration of permits.* The duration of a permit issued under this section shall be designated on the "face of the permit.

Questions concerning permit applications for animals listed by similarity of appearance should be directed to the Federal Wildlife Permit Office, U.S. Fish and Wildlife Service, Washington, DC 20240 (703/235–1903). Such permits are information collections that have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1018–0022. The information collection is necessary to determine the eligibility of applicants for permits.

The Service notes that the proposed change in the status of the ranched population of the Nile crocodile in Zimbabwe, if made final, will not affect the wild population, which remains on the List of Endangered and Threatened Wildlife as endangered.

In addition, all requirements of CITES with respect to Appendix II species, as well as the laws of Zimbabwe, must be

met prior to allowing the importation of live ranched crocodile or whole skins into the United States. These requirements are already in effect.

Public Comments Solicited

The Service intends that any final rule adopted will be as accurate and as effective as possible in the conservation of the species in question. Therefore, any comments or suggestions from the public, other concerned governmental agencies including those in Zimbabwe, the scientific community, industry, or any other interested party concerning any aspect of these proposed rules are hereby solicited. Comments are particulary sought concerning biological commercial trade impacts on other crocodiles, or other relevant data concerning any threat (or lack thereof) to the ranched population of the Nile crocodile in Zimbabwe.

Final promulgation of the regulation on the ranched population of the Nile crocodile in Zimbabwe will take into consideration the comments and any additional information received by the Service, and such communications may lead to adoption of final regulations that differ 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 proposal. Such requests must be made in writing and addressed to the Director, U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC 20240.

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

Blake, D.K. 1982. Crocodile ranching in Zimbabwe. Zimbabwe Sci. News 16(9):208–209.

Caldwell, J.R. 1983. Nile crocodile skin trade (1975–1982). Traffic Bulletin. 6(2):39.

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Hutton, J.M. 1982. Home range and territoriality in the Nile crocodile. Zimbabwe Sci. News. 16(9):199–201.

Modha, M.L. 1976. The ecology of the Nile crocodile (*Crocodylus niloticus* Laurenti) on Central Island, Lake Rudolf. East Afr. Wildlife J. 5:74–95.

Pooley, A.C. 1982. The status of African crocodiles in 1980. pp. 174–228 In: Proceedings of the 5th Working Meeting of the Crocodile Specialist Group of the Species Survival Commission of the International Union for the Conservation of Nature and Natural Resources, IUCN, Gland, Switzerland.

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Zimbabwe Department of National Parks and Wildlife Management. 1982. National Parks policy—conservation and management of crocodiles in Zimbabwe. Zimbabwe Sci. News 16(9):214–215.

Author

The primary author of this proposed rule is K. Bruce Jones, Office of Endangered Species, U.S. Fish and Wildlife Service, Washington D.C. 20240 (Dr. C. Kenneth Dodd drafted the initial proposal).

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 U.S. 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. 95–362, 92 Stat. 3751; Pub. L. 96–159, 93 Stat. 1225; Pub. L. 97–304, 96 Stat. 1411 (16 U.S.C. 1531 et. seq.).

2. It is proposed to amend § 17.11(h) by revising the entry for the Nile crocodile under "Reptiles" on the List of Endangered and Threatened Wildlife to read as follows:

§ 17.11 Endangered and threatened wildlife.

* * * * *

(h) * * *

Species		Historic range	Vertebrate population where endangered or threatened	Status	When listed	Critical habitat	Special rules
Common name	Scientific name						
REPTILES							
Crocodile, Nile	*Crocodylus niloticus*	Africa	Entire (except ranched populations in Zimbabwe)	E	3	N/A	N/A
Crocodile, Nile	*Crocodylus niloticus*	Africa	Zimbabwe (ranched populations only)	T(S/A)		N/A	N/A

Dated: February 9, 1986.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–4949 Filed 3–6–86; 8:45 am]

BILLING CODE 4310-55-M

Notices

Federal Register
Vol. 51, No. 45
Friday, March 7, 1986

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

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

Committee on Regulation; Public Meeting

The Committee on Regulation of the Administrative Conference of the United States will meet at 9:30 a.m., March 14, 1986, at 1330 Connecticut Avenue NW (Offices of Steptoe and Johnson, 9th Floor Conference Room) Washington, DC. The committee will discuss a report and proposed recommendation by Zona Hostetler on the topic of representation by non-lawyers in federal agency proceedings. For further information contact William C. Bush at 202–254–7065.

Attendance is open to the public, but limited to the space available. Persons wishing to attend should notify the contact person at least one day in advance. The committee chairman may permit members of the public to make oral statements at the meeting. Written statements may be submitted to the committee at any time. Minutes of the meeting will be available on request.

Dated: March 4, 1986.

Richard K. Berg,

Genreal Counsel.

[FR Doc. 86–5001 Filed 3–6–86; 8:45]

BILLING CODE 6110–01–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

Privacy Act; System of Records

AGENCY: Office of the Secretary, USDA.

ACTION: Notice of revision of Privacy Act System of Records.

SUMMARY: Notice is hereby given that USDA is revising one of its Privacy Act Systems of records maintained by the Farmers Home Administration, USDA/FmHA–3, "Credit Report File, USDA/FmHA." This action is necessary to recognize organizational changes involving custodianship of FmHA records and to permit release of information to Congressional officers, collection or servicing contractors, and local, State, or Federal Agencies. The intended effect is to enable FmHA to provide information from borrower's, grantee's, or applicant's Credit Report file to effectively make, collect, and service loans.

EFFECTIVE DATE: April 7, 1986. Comments must be received by the contact person listed below on or before April 7, 1986.

FOR FURTHER INFORMATION CONTACT: Virgle L. Cunningham, Jr., Freedom of Information Officer, Directives and Administrative Services Division, Farmers Home Administration, USDA, Room 6865, South Building, Washington, D.C. 20250, telephone (202) 382–9638.

SUPPLEMENTARY INFORMATION: USDA hereby amends its system of records, USDA/FmHA–3, by: recognizing that District Directors are custodians of USDA/FmHA–3 Credit Report files administered by District Offices; amending the "Routine uses of records maintained in the system, including categories of users and the purposes of such uses" to permit referral of information to other Government agencies, courts, magistrates, Administrative tribunals, opposing counsels, and servicing contractors; and making other minor revisions.

By this action FmHA will (1) clarify its authority to turn borrower, grantee, or applicant Credit Report Files over to servicing contractors; and (2) be able to use such information in effectively making, collecting, and servicing loans. Accordingly, USDA revises the full text of FmHA's systems of records, USDA/FmHA–3, "Credit Report File, USDA/FmHA" (Privacy Act issuances, 1984 Compilation, Volume I, pages 24–25), to read as printed below.

Signed at Washington, D.C., on March 3, 1986.

Frank W. Naylor,

Acting Secretary of Agriculture.

USDA/FmHA–3

SYSTEM NAME:

Credit Report File, USDA/FmHA.

SYSTEM LOCATION:

Each borrower's, grantee's, or applicant's credit report file is located in the County, District, or State Office through which the financial assistance is sought or was obtained. The addresses of State, District, and County offices are listed in the telephone directory of the appropriate city or town under the heading "United States Government, Department of Agriculture, Farmers Home Administration." Correspondence about borrower's, grantees, or applicant's credit reports and personal reference are located in the National, State, District, and County Offices Applicant/Borrower or Grantee file. A list of State Offices is included under the system titled "USDA/FmHA Applicant/Borrower or Grantee file."

The National Office is located at 14th and Independence Avenue, SW, Washington, D.C. 20250.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All FmHA borrowers, grantees, and recent applicants are included in the system.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system consist of credit reports and personal references from credit agencies, lenders, and individuals.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

7 U.S.C. 1921 et. seq., 42 U.S.C. 1471 et. seq., and 5 U.S.C. 301.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Referral to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting a violation of law, or of enforcing or implementing the statute, rule, regulation or order issued pursuant thereto, of any record within this system when information available indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by rule, regulation, or order pursuant thereto.

Referral to employers, businesses, landlords, creditors and others in order for FmHA to validate information and otherwise determine repayment ability and eligibility for FmHA programs.

Disclosure may be made to a Congressional office from the record of an individual in response to an inquiry

from the Congressional office made at the request of that individual.

Referral to a collection or servicing contractor, or a local, State, or Federal agency, when FmHA determines such referral is appropriate for making or servicing loans, collecting the borrowers's account or as provided for in contracts with servicing or collection agencies.

Referral to a court, magistrate, or administrative tribunal, or to opposing counsel in a proceeding before any of the above, of any records within the system which constitutes evidence in that proceeding, or which is sought in the course of discovery.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are maintained in the Applicant/Borrower or Grantee file folders at the State, District, and County Offices.

RETRIEVABILITY:

Records are indexed by name and identification number.

SAFEGUARDS:

Records are kept in locked offices at the State, District, and County Office. Access is restricted to authorized FmHA personnel.

RETENTION AND DISPOSAL:

Records are maintained subject to the Federal Records Disposal Act of 1943 (44 U.S.C. 366–380) and in accordance with FmHA's disposal schedules. Disposal of records at the State, District, and County Office is accomplished through deposit in office waste containers. Credit reports and personal references relating to applications which are rejected, withdrawn, or otherwise terminated are retained in the County, District, or State Office 1 full fiscal year after the fiscal year in which final action was taken on the application.

Credit reports concerning borrowers who have paid or otherwise satisfied their obligation are retained in the County, District, or State Office 1 full fiscal year. Correspondence records at the National Office which concern borrowers, grantees, or applicants are retained 3 fiscal years after the last year in which there was correspondence.

SYSTEM MANAGER(S) AND ADDRESS:

The County Supervisor at the County Office, District Director at the District Office, State Director at the State Office, and the Administrator, FmHA, for the National Office file.

NOTIFICATION PROCEDURE:

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to him/her from the appropriate System Manager. If the specific location of the record is not know, the individual should address his/her request to the Administrator (Attention: Freedom of Information Officer), USDA/FmHA, Washington, D.C. 20250. A request for information pertaining to an individual should contain: Name, address, FmHA Office where loan/grant was applied for/approved, and particulars involved (i.e., date of request/approval; which FmHA program, etc.).

RECORD ACCESS PROCEDURES:

Any individual may obtain information as to the procedures for gaining access to a record in the system which pertains to him/her by submitting a written request to one of the Systems Managers referred to in the preceding paragraph.

CONTESTING RECORD PROCEDURES:

Same as Record access procedures.

RECORD SOURCE CATEGORIES:

Information in this system comes primarily from credit agencies and creditors.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Information contained in this system which would reveal the identity of a source who furnised information under an expressed or implied promise of confidentiality prior to May 1, 1979, and an expressed promise of confidentiality after May 1, 1979, is exempt from the provisions of 5 U.S.C. 522a(d)(1) on the basis of 5 U.S.C. 552a.(k)(5).

[FR Doc. 86–4997 Filed 3–6–86; 8:45 am]

BILLING CODE 3410–07–M

Agricultural Stabilization and Conservation Service

List of Warehouses and Availability of List of Cancellations and/or Terminations

AGENCY: Agricultural Stabilization and Conservation Service, USDA.

ACTION: Notice of publication of list of warehouses licensed under the U.S. Warehouse Act and availability of list of cancellations and/or terminations occurring during calendar year 1985.

Notice is hereby given that the Agricultural Stabilization and Conservation Service has published a list of warehouses licensed under the U.S. Warehouse Act (7 U.S.C. 241 *et. seq.*) as of December 31, 1985, as required by section 26 of that Act. Also available is a list of cancellations and/or terminations that occurred during calendar year 1985. A copy of the list of warehouses as of December 31, 1985, will be distributed to all licensed warehousemen. Other interested parties may obtain a copy of either list from: Mrs. Judy Fry, ASCS, Warehouse Division, Warehouse Licensing Branch, U.S. Department of Agriculture, P.O. Box 2415, Room 5968, South Agriculture Bldg., Washington, DC 20013, Telephone: 202–447–3822.

Dated: March 4, 1986.

Signed at Washington, DC.

Milton J. Hertz,

Acting Administrator, Agricultural Stabilization and Conservation Service (ASCS).

[FR Doc. 86–5038 Filed 3–6–86; 8:45 am]

BILLING CODE 3410–05–M

CIVIL RIGHTS COMMISSION

Montana Advisory Committee; Public Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Montana Advisory Committee to the Commission will convene at 10:00 a.m. and adjourn at 2:00 p.m., on April 4, 1986, at the Northern Hotel, First & Broadway, Billings, Montana. The purpose of the meeting is to review a briefing memorandum on the Harlem School District and plan future activities.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Betty Babcock or William Muldrow, Acting Director of the Rocky Mountain Regional Office at (303) 844–2211, (TDD 303/844–3031). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission

Dated at Washington, DC, March 3, 1986.

Ann Goode,

Program Specialist for Regional Programs.

[FR Doc. 86–5002 Filed 3–6–86; 8:45 am]

BILLING CODE 6335–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 7-86]

Foreign Trade Zone 124—Gramercy, LA; Application for Subzone at TransAmerican Natural Gas Refinery

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the South Louisiana Port Commission, grantee of Foreign-Trade Zone 124, requesting special-purpose subzone status for the crude oil refinery of TransAmerican Natural Gas Corporation (formerly GHR Energy Corp.) located in Destrehan, Louisiana, adjacent to the Gramercy Customs port of entry. TransAmerican is currently negotiating with prospective purchasers or operators of the refinery and indicates that subzone status would be a factor in these transactions. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR Part 400). It was formally filed on February 21, 1986.

The proposed subzone would encompass the 600-acre oil refinery located on the east bank of the Mississippi River at River Mile Point 126, in Destrehan, 20 miles northwest of New Orleans. The facility, which has been closed since 1983, has the capacity to refine 300,000 barrels per day of crude oil, gas oil, and residual fuel oil, employing 1,000 persons. It is anticipated that mostly foreign inputs would be used and that some of the finished products would be exported.

Zone procedures would exempt the refinery from Customs duty payments on the foreign products used in its exports. On its domestic sales it would be able to take advantage of the same duty rate available to importers of refined products. Motor fuel has a duty rate of 1.25¢/gal., crude oil's rate varies from 0.125¢ to 0.25¢/gal., and butane and kerosene are duty free. The savings from zone status would encourage reactivation of the facility.

In accordance with the Board's regulations, an examiners committee has been appointed to investigate the application and report to the Board. The committee consist of: John J. Da Ponte, Jr. (Chairman), Director, Foreign-Trade Zones Staff, U.S. Department of Commerce, Washington, DC 20230; Joel Mish, District Director, U.S. Customs Service, South Central Region, 423 Canal St., New Orleans, LA 70130; and Colonel Eugene S. Witherspoon, District Engineer, U.S. Army Engineer District New Orleans, P.O. Box 60267, New Orleans, LA 70160.

Comments concerning the proposed subzone are invited in writing from interested parties. They should be addressed to the Board's Executive Secretary at the address below and postmarked on or before April 10, 1986.

A copy of the application and accompanying exhibits will be available during this time for public inspection at each of the following locations:

U.S. Department of Commerce, 423 International Trade Mart, No. 2 Canal Street, New Orleans, LA 70130;

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 1529, 14th and Pennsylvania, NW., Washington, DC 20230.

Dated: March 3, 1986.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 86-4988 Filed 3-6-86; 8:45 am]

BILLING CODE 3510-DS-M

International Trade Administration

[C-614-504]

Final Affirmative Countervailing Duty Determination and Countervailing Duty Order; Carbon Steel Wire Rod From New Zealand

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that certain benefits which constitute bounties or grants within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in New Zealand of carbon steel wire rod. We are not including New Zealand Steel Ltd. (NZS) in our countervailing duty order because benefits received by NZS are *de minimis*. The estimated net bounty or grant for Pacific Steel Ltd. (PSL) and for all other manufacturers, producers, or exporters in New Zealand of carbon steel wire rod, except for NZS, is 25.69 percent *ad valorem*.

We are directing the U.S. Customs Service to continue to suspend liquidation of all entries of carbon steel wire rod from New Zealand, except that exported by NZS, that are entered, or withdrawn from warehouse, for consumption, and to require a cash deposit on such entries equal to the estimated net bounty or grant.

EFFECTIVE DATE: March 7, 1986.

FOR FURTHER INFORMATION CONTACT: Alain Letort, Ellie Shea, or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-0186 (Letort), 377-0184 (Shea), or 377-2438 (Tillman).

SUPPLEMENTARY INFORMATION:

FINAL DETERMINATION AND ORDER

Based on our investigation, we determine that certain benefits which constitute bounties or grants within the meaning of section 303 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in New Zealand of carbon steel wire rod. For purposes of this investigation, the following programs are found to confer bounties or grants:

- Export Performance Taxation Incentive (EPTI)
- Export Market Development Taxation Incentive (EMDTI)
- Sales Tax Exemptions or Refunds on Imported Capital Equipment and Machinery
- Crown Loan to New Zealand Steel Ltd.

We determine the estimated net bounty or grant for the review period to be 25.69 percent *ad valorem* for Pacific Steel Ltd. (PSL) and for all other manufacturers, producers, or exporters in New Zealand of carbon steel wire rod. New Zealand Steel Ltd. (NZS) is not included in this countervailing duty order because benefits received by NZS are *de minimis*.

Case History

On September 23, 1985, we received a petition in proper form from Atlantic Steel Co., Georgetown Steel Corp., North Star Steel Texas, Inc., and Raritan River Steel Co., filed on behalf of the U.S. industry producing carbon steel wire rod. In compliance with the filing requirements of section 355.26 of our regulations (19 CFR 355.26), the petition alleges that manufacturers, producers, or exporters in New Zealand of carbon steel wire rod, directly or indirectly, receive benefits which constitute bounties or grants within the meaning of section 303 of the Act.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on October 15, 1985, we initiated such an investigation (50 FR 43590). We stated that we expected to issue our preliminary determination on or before December 17, 1985.

Since New Zealand is not a "country under the Agreement" within the meaning of section 701(b) of the Act,

sections 303(a)(1) and 303(b) of the Act apply to this investigation. Accordingly, petitioners are not required to allege that, and the U.S. International Trade Commission is not required to determine whether, imports of the subject merchandise materially injure, or threaten material injury to, a U.S. industry.

On October 25, 1985, we presented a questionnaire to the Embassy of New Zealand in Washington, DC concerning the petitioners' allegations. On November 25, 1985, we received responses to our questionnaire from New Zealand Steel Ltd. (NZS), Pacific Steel Ltd. (PSL), and the government of New Zealand. We received supplementary responses from NZS on December 4, 1985, December 12, 1985, and December 13, 1985, and from PSL on December 13, 1985, and December 17, 1985. On the basis of the information contained in these responses, we made our preliminary determination on December 17, 1985 (50 FR 52351). From January 27 to February 3, 1986, we verified the responses submitted by the government of New Zealand, NZS and PSL.

We received supplemental submissions from NZS on January 16, 1986, and from PSL on January 14, 1986, February 12, 1986, and February 25, 1986. We afforded interested parties an opportunity to present oral views in accordance with our regulations (19 CFR 355.35). No public hearing was requested. On February 7, 1986, we received initial briefs from petitioners and respondents. On February 20, 1986, we received written comments on the verification reports and rebuttal briefs.

Scope of Investigation

For purposes of this investigation, the term "carbon steel wire rod" covers a coiled, semi-finished, hot-rolled carbon steel product of approximately round solid cross section, not under 0.20 inch in diameter, nor over 0.74 inch in diameter, tempered or not tempered, treated or not treated, not manufactured or partly manufactured, and valued over or under 4 cents per pound. Wire rod is currently classifiable under items 607.14, 607.17, 607.22, and 607.23 of the *Tariff Schedules of the United States (TSUS)*.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984, issue of the **Federal Register** (49 FR 18006).

For purposes of this final determination, the period for which we are measuring bounties or grants (the review period) is April 1, 1984 through March 31, 1985. Pacific Steel Ltd. (PSL) is the only known producer of carbon steel wire rod in New Zealand. Both NZS and PSL exported wire rod to the United States during the review period. Based upon our analysis of the petition, the responses to our questionnaire submitted by the government of New Zealand, NZS, and PSL, our verification, and written comments submitted by interested parties, we determine the following:

I. Programs Determined to Confer Bounties or Grants

We determine that bounties or grants are being provided to manufacturers, producers, or exporters in New Zealand of carbon steel wire rod under the following programs:

A. Export Performance Taxation Incentive

Petitioners allege that, under section 156A of the Income Tax Act of 1976, as amended, the New Zealand wire rod industry receives tax credits under the Export Performance Taxation Incentive (EPTI) program, based on the f.o.b. value of qualifying goods exported.

In its response, the government of New Zealand stated that an EPTI tax credit can be taken as a deduction against income tax payable. If the tax credit exceeds the income tax payable, the taxpayer receives a cash payment for the difference. The rate of the tax credit depends on the value-added category or "band" into which a product falls. The amount of the tax credit is calculated by multiplying the rate corresponding to the value-added band into which a product falls by the f.o.b. value of export sales of that product. At verification, we ascertained that carbon steel wire rod falls into value-added band B, for which the EPTI tax credit rate is 10.5 percent. We also found that the rates specified under this program will be progressively reduced in the 1986 and 1987 fiscal years, and that EPTI tax credits will no longer be available starting with the 1988 fiscal year. We verified that NZS claimed EPTI tax credits on the income tax return it filed during the review period, but not on its exported carbon steel wire rod. PSL did claim and EPTI tax credit with respect to exported carbon steel wire rod on the tax return filed during the review period.

Because eligibility for this program is limited to exporters, we determine that it provides a bounty or grant within the meaning of the countervailing duty law to manufacturers, producers and exporters of carbon steel wire rod, except NZS.

Under our tax methodology, we calculate the benefit from this program by dividing the EPTI tax credit claimed by PSL during the review period on exports of wire rod to the United States by the value of PSL's exports of wire rod to the United States during the review period. On this basis, we calculate an estimated net bounty or grant of 24.95 percent *ad valorem* for PSL.

B. Export Market Development Taxation Incentive

Petitioners allege that the New Zealand wire rod industry receives EMDTI tax credits for certain qualifying export expenditures under the Export Market Development Taxation Incentive (EMDTI) program, pursuant to section 156F of the New Zealand Income Tax Act of 1976, as amended.

Under the 1979 Amendment of the Income Tax Act of 1976, export market development expenditures, such as expenses incurred principally for seeking and developing markets, retaining existing markets, and obtaining market information, qualify for a tax credit of 67.5 percent of the total expenditure. Any company that has such expenditures may claim them in calculating taxable income. However, an exporter who takes advantage of this tax credit may not deduct the qualifying expenditures as ordinary business expenses in calculating the taxable income. Because the normal corporate tax rate in New Zeland is 45 percent, and exporters may claim a tax credit of 67.5 percent, the net benefit to the exporters under this program is 22.5 percent of the qualifying expenditure amount.

Because eligibility for this program is limited to exporters, we determine that it confers a bounty or grant within the meaning of the countervailing duty law.

We verified that both NZS and PSL claimed EMDTI on their tax returns filed during the review period. To calculate the benefit from this program, we divided 22.5 percent of the qualifying expenditures which were calimed by each company on their tax returns filed during the review period by the total f.o.b. value of each company's export sales during the review period. On this basis, we find an estimated net bounty or grant amount of 0.25 percent *ad valorem* for NZS and 0.02 percent *ad valorem* for PSL.

C. Sales Tax Exemptions or Refunds on Imported Capital Equipment and Machinery

Petitioners alleged that the New Zeland wire rod industry receives sales tax exemptions or refunds on machinery and equipment used in the production of goods for export.

At verification, we ascertained that New Zeland exporters may receive sales tax remissions (exemptions) or refunds on imported machinery and equipment used principally in the production of export goods. At the company level, we verified that NZS had been exempted from sales tax on some imported machinery and equipment used in its pipe mill. Because NZS did not receive during the review period any sales tax exemptions or refunds on imported machinery and equipment used to produce wire rod, we determine that no benefit accrues to exports of wire rod by NZS. Although PSL had stated in its responses that it did not receive sales tax exemptions or refunds during the review period, we verified that it had, in fact, received a number of these exemptions and refunds, which it was unable to quantity.

Because information on the record indicates that sales tax exemptions or refunds are available only on machinery and equipment used principally in export production, we determine that this program provides a bounty or grant to manufacturers, producers, and exporters of carbon steel wire rod within the meaning of the countervailing duty law.

To calculate the benefit, we used the best information available and multiplied the net increase in the value of PSL's plant and equipment from 1984 to 1985, as reported in the company's 1985 financial statement, by the sales tax rate for machinery as listed in Chapter 84 of the New Zealand Customs Tariff. We then divided the benefit by the value of PSL's export sales during the review period. On this basis, we calculate an estimated net bounty or grant of 0.72 percent *ad valorem* for PSL.

D. Crown Loan to New Zealand Steel Ltd.

At verificiation, we found that NZS had received a direct loan from the Crown in 1974. This loan was divided into two parts: "Mode A," which was earmarked for the expansion of the company's steel-making activities, and "Mode B," which was expressly provided for the construction of worker housing. NZS used Mode B funds to build housing units which it rents out to its workers.

The terms of the Mode A portion of the loan specify that the interest rate is variable. From its initial 1974 level, the interest rate was increased in 1977. Pursuant to an agreement between the Crown and NZS, NZS repaid the principal and all interest accrued during the life of the loan in July 1985, subsequent to the review period but prior to our preliminary determination. The interest on the Mode B portion of the loan, which is not due to be repaid until 1999, has been increased several times since 1974. We verified that NZS has been paying interest at regular intervals on this portion of the loan.

Given the dual nature of this Crown loan to NZS, we are examining Mode A and Mode B separately.

With respect to Mode A, neither the government of New Zealand nor NZS has denied that the Crown loan was limited to a single enterprise or industry, nor has any evidence been provided that such loans are available to a broad range of enterprise or industries in New Zealand. Accordingly, we determine that this loan was provided to a specific enterprise, and is countervailable to the extent that it was given on terms inconsistent with commercial considerations.

To determine whether this loan was made on terms inconsistent with commercial considerations, we compared the interest rate on the Mode A portion of the loan for each year in which the loan was outstanding with the national average short-term commercial interest rate, as published by the Reserve Bank of New Zealand and quoted in the government response. We used short-term commercial interest rates as our benchmark because this is a variable-rate loan, and we have no information on commercial interest rates for variable-rate long-term loans in New Zealand. Because commercial interest rates were higher than the interest rates on Mode A, we determine that this portion of the Crown loan was made on terms inconsistent with commercial considerations, and confers a countervailable benefit. Using our loan methodology for variable-rate long-term loans, we calculate a benefit of 0.13 percent *ad valorem* for NZS.

Because the principal amount of this loan was repaid, along with all interest accrued during the life of the loan, on July 31, 1985, which is subsequent to the review period but prior to our preliminary determination, we determine that any benefits to the company from this loan are not accruing to current exports of wire rod to the United States. Therefore, we are not including this benefit amount in the cash deposit rate.

With respect to Mode B, the potential countervailability of this portion of the loan raises the complex issue of whether the loan benefits accrue to NZS or to its workers. Since any potential benefit to NZS would be 0.02 percent *ad valorem*, and since this rate, when combined with the rate found for NZS in the EMDTI program, yields an overall rate which is *de minimis*, we believe that it is inappropriate at this time to determine whether, in fact, this portion of the loan would be countervailable.

II. Programs Determined not to Confer Bounties or Grants

A. Import Duty Exemptions or Refunds

Petitioners allege that the New Zealand wire rod industry receives import duty exemptions or refunds on machinery and equipment used in the production of goods for export.

At verification, we found that import duty exemptions and refunds are available to all importers when no equivalent local product is available on commercially reasonable terms, and that such import duty exemptions are not contingent upon export performance. We saw no evidence that such exemptions or refunds were limited to a specific enterprise or industry, or group of enterprises or industries. Therefore, we determine that import duty exemptions or refunds do not confer a countervailable benefit.

B. Technical Assistance from the Department of Scientific and Industrial Research

Petitioners allege that the Department of Scientific and Industrial Research (DSIR) provides facilities for testing international standards and advice on implementation and mangement of quality assurance systems to the wire rod industry in New Zealand.

At verification, we found that DSIR conducts studies and research for a wide variety of enterprises and industries, the results of which are publicly available. We also ascertained that such assistance is not contingent upon export performance. Because such assistance is not limited to a specific enterprise or industry or group of enterprises or industries, we determine that DSIR technical assistance does not confer a countervailable benefit.

C. Technical Assistance From the Testing Laboratory Registration Council

Petitioners allege that the Testing Laboratory Registration Council (TELARC) provides audits of export manufacturers' quality assurance systems.

At verification, we ascertained that TELARC's services to its members are unrelated to their export perofrmance. Further, we ascertained that any enterprise in New Zealand may become a member of TELARC on a fee-paying basis in order to use its services. Because TELACR's services are not limited to a specific enterprise or industry, or group of enterprises or industries, we determine that TELARC assistance does not confer a countervailable benefit.

III. Programs Determined not to be Used

Based on our verification of the repsonses of the government of New Zealand, NZS, and PSL, we determine that manufacturers, producers, and exporters in New Zeland of carbon steel wire rod did not use the following programs:

A. Export Credits and Development Financing from the Development Finance Corporation

Petitioners allege that the Development Finance Corporation (DFC) provides export credits and development financing on preferential terms. At verification, we ascertained that neither of the respondents had any DFC loans outstanding during the review period.

B. Export Suspensory Loan Scheme

Petitioners allege that the Development Finance Corporation provides financing under the Export Suspensory Loan Scheme (ESLS) for up to 40 percent of actual expenditures on plant and machinery used in the manufacture of designated products. The export suspensory loans are repayable at commercial rates but can become grants if the exporter meets predetermined export sales targets. At verification, we ascertained that neither of the respondents had any ESLS loans outstanding during the review period.

C. Export Programme Grants Scheme

The Export Programme Grants Scheme (EPGS) was superseded by the EPSLS in June 1982. However, petitioners allege that grants under EPGS could continue until June 1985. Grants under EPGS were given to exporters to encourage marketing research in targeted foreign markets. The grants, amounting to 64 percent of budgeted expenditures, were available for up to three years. At verification, we ascertained that neither of the respondents participated in this program.

D. Export Programme Suspensory Loan Scheme

Petitioners allege that loans are available under the Export Programme Suspensory Loan Scheme (EPSLS) for up to 40 percent of eligible expenditures to established exporters who increase their net foreign exchange earnings through the marketing of specific goods or services in a designated foreign market. If a predetermined export sales forecast is met, the suspensory loan is converted to a grant; if the forecast is not met, the exporter must repay the loan with interest. At verification, we ascertained that neither of the respondents had received any EPSLS loans or grants.

E. Export Marketing Assistance from the New Zealand Export-Import Corporation

Petitions allege that the New Zealand Export-Import Corporation (EIC) provides export marketing assistance such as the arrangement of overseas promotion displays, negotiations of overseas sales, and assistance to smaller companies that lack the resources or skills to export. At verification, we ascertained that neither of the respondents used EIC's services in exporting carbon steel wire rod to the United States during the review period.

F. Technical Assistance from the Standards Association of New Zealand

Petitioners allege that the Standards Association of New Zealand (SANZ) provides service which include translation of technical documents and assistance in obtaining foreign standards, regulations, and testing requirments. At verification, we found that SANZ provides such assistance to companies in New Zealand on a fee-paying basis. However, SANZ also receives operating assistance in the form of a government grant.

We ascertained that neither NZS nor PSL purchased standards, specifications, or other services from SANZ pertaining to carbon steel wire rod during the review period.

G. Technical Help to Exporters

Petitioners allege that SANZ also provides information often free of charges, regarding technical specifications incident to overseas marketing under the Technical Help to Exporters (T*H*E) program. At verification, we ascertained that neither of the respondents had participated in this program during the review period.

H. Technical Assistance from the Building Research Association of New Zealand

Petitioners allege that the Buidling Research Assocation of New Zealand (BRANZ) provides research and testing assistance to New Zealand exporters. At verification, we learned that BRANZ, a private research organization, provides research and testing services on a fee-paying basis to members of the building industry. These services are not contingent upon export performance. We ascertained that neither NZS nor PSL used the services offered by BRANZ during the review period.

I. Export Marketing Assistance from the Department of Trade and Industry

Petitioners allege that the Department of Trade and Industry (DTI) provides financial and organizational support for participation in overseas trade fairs, advice on foreign market conditions, advice and assistance on transportation to foreign markets, and help in placing advertisements free of charge in overseas trade publications. At verification, we ascertained that neither of the respondents participated in this program during the review period.

J. Preferential Treatment to Exporters in Granting Import Licenses

Petitioners allege that import licensing concessions are provided to companies which import materials for incorporation in goods to be exported. Such concessions may include additional availability of import licenses on components for incorporation in goods to be exported. At verifications, we ascertained that neither of the respondents participated in this program.

K. Research and Development Incentives

Petitioners allege that the New Zealand wire rod industry receives research and development incentives under the Applied Technology Program (ATP) administered by the DFC and under the previous Industrial Research and Development Grants Advisory Committee of the Department of Trade and Industry. At verification, we ascertained that neither of the respondents participated in this program.

L. Regional Development Investment Incentives

Petitioners allege that New Zealand wire rod producers receive a variety of regional development incentives based on their location in regions classified as either priority or slow-growth.

Petitioners also allege that the wire rod industry recieves concessions on electricity, water rights, and rail freight for any facilities located on the South Island. At verification, we ascertained that neither company has any facilities in the classified regions or on the South Island.

M. Special Industrial Development Allowances

Petitioners allege that the New Zealand wire rod industry receives tax benefits from the Industrial Develoment Plan Investment Allowance (IDPIA) under section 121 or the High Priority Investment Allowance (HPIA) under section 121A of the New Zealand Income Tax Act of 1976, as amended. At verification, we ascertained that neither of the respondents had claimed any tax benefits under these programs on the tax return filed during the review period.

N. Goverment Loan Guarantees to New Zealand Steel Develoment Ltd.

At verification, we discovered that New Zealand Steel Development Ltd. (NZSD), a joint venture in which the government of New Zealand owns 60 percent of the stock and NZS 40 percent, had received guarantees from the New Zealand Treasury on a number of loans and bond issues denominated in foreign currencies. The proceeds from these loans and bond issues are being used to finance the expansion of NZS's steel-making facilities. We verified that the expanded steel mill is not scheduled to come on stream until 1988 and is intended to produce flat-rolled steel products, rather than round steel products such as carbon steel wire rod.

IV. Programs Determined to be Terminated

Based on our verification of the responses of the New Zealand Government, New Zealand Steel Ltd. and Pacific Steel Ltd., we determine that the following programs have been terminated:

A. Increased Exports Taxation Incentive

Under the Increased Exports Taxation Incentive (IETI) program, an exporter can claim an income tax deduction proportionate to the exporter's increased export earnings. We verified that the IETI program was terminated on March 31, 1983, and that neither NZS nor PSL claimed IETI tax credits on their tax returns filed during the review period.

B. New Markets Increased Exports Taxation Incentive

Petitioners allege that the New Zealand wire rod industry is eligible to receive tax benefits under the New Markets Increased Exports Taxation Incentive (NMIETI) program, pursuant to section 157 of the New Zealand Income Tax Act of 1976, as amended. We verified that the NMIETI program was terminated on March 31, 1983, and that neither NZS nor PSL claimed tax benefits under this program on their tax returns filed during the review period.

C. Export Investment Allowances

Petitioners allege that the New Zealand wire rod industry receives tax benefits under the Export Investment Allowance program, which was terminated on March 31, 1983, and the Export Manufacturing Investment Allowance program. We verified that these tax programs were terminated on March 31, 1983, and that neither NZS nor PSL claimed tax benefits under these programs on their tax returns filed during the review period.

D. Research and Development Incentives from the Industrial Research Grants Advisory Committee

Petitioners allege that the Industrial Research Grants Advisory Committee on the Department of Trade and Industry provides research and development incentives to the wire rod industry in New Zealand. At verification, we ascertained that this program was terminated in 1974.

Petitioners' Comments

Comment 1: Petitioners contend that, in calculating the value of the benefit to the respondents from the EPTI program, the Department should divide total EPTI credits taken by the respondents by the value of exports that are eligible for this program, rather than by the value of total exports.

DOC Position: We believe that the most accurate way to calculate the benefit accruing to exports of wire rod to the United States under the EPTI program is to divide the value of the EPTI credits claimed by PSL on the tax return filed during the review period for its exports of wire rod to the United States by the value of it wire rod exports to the United States during the review period.

Comment 2: Petitioners contend that the Department should countervail EPTI tax credits taken by NZS on exported products other than carbon steel wire rod.

DOC Position: We disagree. We verified that NZS did not claim EPTI credits on exports of carbon steel wire rod. Therefore, no countervailable benefit accrues to carbon steel wire rod exported by NZS.

Comment 3: Petitoners suggest that the Department should compute separate benefit rates for each respondent with respect to the EPTI and EMDTI programs or, alternatively, use PSL's rate as the country-wide rate since PSL is the only manufacturer, and the only regular exporter, of carbon steel wire rod in New Zealand.

DOC Position: We have, in fact, calculated separate rates for each company. Because benefits provided to NZS are *de minimis*, NZS is excluded from this determination. Therefore, PSL's rate is the countrywide rate.

Comment 4: Petitioners claim that the discrepancy between the amount of EMDTI benefit received by PSL as reported in the questionnaire response and in the company's financial statement has not adequately been explained.

DOC Position: As stated in the verification report, although the tax benefit is calculated by taking 67.5 percent of total qualifying expenditures, the actual benefit from the EMDTI program is 22.5 percent of total qualifying expenditures. The corporate tax rate in New Zealand is 45 percent. Absent EMDTI, these expenditures would qualify as normal business deductions at the 45 percent rate. Thus, PSL's annual report for fiscal 1984 shows the total export tax savings which includes EPTI tax credits and the 67.5 percent of the total qualifying expenditures. In PSL's questionnaire response, however, the benefit under EMDTI is appropriately reported as 22.5 percent of the qualifying expenditures.

Comment 5: Petitioners argue that, in calculating the benefits received from sales tax exemptions or refunds on imported machinery and capital equipment, the Department should include all such exemptions and refunds received by NZS and discovered at verification.

DOC Position: We excluded sales tax exemptions and refunds received by NZS because NZS was able to demonstrate at verification that all sales tax exemptions and refunds it received were tied to its pipe mill, so that no such benefits were tied to exports of carbon steel wire rod.

Comment 6: Petitioners argue that sales tax exemptions and refunds received by PSL and discovered at verification should be multiplied by two to reflect the fact that records for the first six months of the review period were unavailable.

DOC Position: Because PSL could not provide complete and accurate data on the sales tax exemptions or refunds it received, as best information available

we are assuming that all machinery and capital equipment purchased during the review period were imported and were exempted from sales tax (*see* section I.C above).

Comment 7: Petitioners contend that the Crown loan received by NZS was made on terms inconsistent with commercial considerations, and that, although the interest rate on Mode A increased, the increase was merely partial compensation for the time value of the interest payments which were deferred over the span of the loan without compounding or penalty. Petitioners contend that this deferral of interest payments confers an additional benefit to the company.

DOC Position: Although we agree with petitioners that this loan confers a bounty or grant and that the deferral of interest payments confers an additional benefit upon NZS, we determine that any benefits to the company from the Mode A portion of this loan are not accruing to current exports of wire rod to the United States because this portion of the loan was repaid prior to our preliminary determination.

Respondents' Comments

Comment 1: Respondents argue that the Department should not calculate the EPTI benefit on the basis of EPTI tax credits received for exports made prior to the review period, since the government of New Zealand has reduced the level of EPTI benefits subsequent to the review period. Rather, the Department should calculate the value of the EPTI benefit received by the respondents based on the EPTI credit rate for exports made during the review period.

DOC Position: We disagree. We believe that benefits from tax programs accrue when a company actually receives the benefits, rather than when a company becomes eligible to receive them. Tax law changes, such as the EPTI phase-out schedule, cannot be considered to be in effect until fully implemented by the government and used by the respondent. We verified that PSL claimed and received a 10.5 percent EPTI tax credit on carbon steel wire rod in its most recently completed tax return, filed in March 1985 and covering the company's 1984 tax year. NZS did not claim an EPTI tax credit for its exports of carbon steel wire rod on its tax return filed during the review period. We also verified that NZS and PSL will be eligible to claim a 10.5 percent EPTI credit on their 1986 tax returns, which are scheduled to be filed later this year.

The EPTI tax credit rate will not be lowered until the company's 1986 fiscal year, and, under our tax methodology, these benefits are not effectively realized until the year in which the 1986 tax return is filed. If the scheduled EPTI changes are claimed in future tax returns, we will consider these changes in any future administrative review requested under section 751 of the Act.

Comment 2: Respondents contend that the Department erroneously excluded export sales of NZS from its denominator in calculating the EPTI benefit received by the respondents during the review period.

DOC Position: To calculate the EPTI benefit received by PSL, we have divided the EPTI tax credit claimed by PSL on its tax return filed during the review period for its exports of wire rod to the United States by the value of such exports during the review period. Since NZS did not claim any EPTI benefits on exports of carbon steel wire rod, and since NZS and PSL received materially different benefits, we have calculated company-specific rates for each program. Because the overall rate for NZS is *de minimis*, PSL's company-specific rate becomes the country-wide rate and NZS is not included in the countervailing duty order.

Comment 3: Respondents contend that no bounty or grant should be calculated as a result of sales tax exemptions received by NZS, as none of the sales tax exemptions were for goods used to make wire rod or billets, which are the major input into wire rod.

DOC Position: We agree. Because sales tax exemptions received by NZS were for machinery and equipment not used to produce wire rod or billet, we do not find this program to confer a bounty or grant on the subject merchandise sold by NZS.

Comment 4: Respondents contend that no bounty or grant should be calculated as a result of sales tax exemptions received by PSL since all items purchased for which sales tax exemptions and refunds were available fall under specific codes of the Schedule of Goods Exempt from Sales Tax in New Zealand Customs Tariff, and were not dependent upon actual or projected export performance.

DOD Position: We disagree. At verification, we were unable to examine PSL's complete records on sales tax exemptions and refunds on imported capital equipment and machinery. Files were available for the last six months of the review period only. At the Sales Tax Division of the Auckland Customs office, we were unable to verify that items purchased by PSL for which sales tax exemptions and refunds were received fall under specific codes of the Schedule of Goods Exempt from Sales Tax. Furthermore, the laws on sales tax exemptions and refunds clearly tie such exemptions and refunds to export performance.

Verification

In accordance with section 776(a) of the Act, we verified the information and data used in making our final determination. During verification, we followed normal verification procedures, including meetings with government officials and inspection of documents, as well as on-site inspection of the accounting records of NZS and PSL, the companies producing and exporting the merchandise under investigation to the United States.

Administrative Procedures

We afforded interested parties an opportunity to present oral views in accordance with our regulations (19 CFR 355.35). No public hearing was requested. In accordance with the Department's regulations [19 CFR 355.34(a)], written views were received on February 7 and 20, 1986, and were considered in this determination.

Suspension of Liquidation

Suspension of liquidation ordered in our preliminary affirmative countervailing duty determination will remain in effect until further notice, except with respect to carbon steel wire rod exported by NZS. The estimated net bounty or grant for PSL and for all other manufacturers, producers, or exporters in New Zeland of carbon steel wire rod, except for NZS, is 25.69 percent ad *valorem*.

In accordance with section 706(a)(3) of the Act, we are directing the U.S. Customs Service to require a cash deposit in the amount indicated above for each entry of the subject merchandise from New Zealand, other than that exported by NZS, which is entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register** and to assess countervailing duties in accordance with sections 706(a)(1) and 751 of the Act.

This notice is published pursuant to section 705(d) of the Act [19 U.S.C. 1671d(d)].

Dated: March 3, 1986.

Paul Freedenberg,

Assistant Secretary for Trade Administration.

[FR Doc. 86-5033 Filed 3-6-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-122-505]

Extension of Final Countervailing Duty Determination; Oil Country Tubular Goods From Canada

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On February 7, 1986, we received a letter from counsel for petitioners requesting that we extend the final countervailing duty determination on oil country tubular goods from Canada to coincide with the final antidumping duty determination on a simultaneously initiated investigation of the same merchandise from the same country. This request was made pursuant to section 705(a)(1) of the Tariff Act of 1930, as amended.

Pursuant to petitioners' request, we are extending the date of the final countervailing duty determination on oil country tubular goods from Canada until not later than April 16, 1986, to correspond to the date of the final antidumping duty determination.

Under Article 5.3 of the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (1979), we would have to terminate suspension of liquidation of countervailing duties if the final injury determination date, as extended, was more than four months after the date of publication of the preliminary affirmative countervailing duty determination, December 30, 1985 (50 FR 53172). Therefore, if our final determination is affirmative, we will terminate the suspension of liquidation of countervailing duties for all oil country tubular goods from Canada entered, or withdrawn from warehouse, for consumption on or after May 1, 1986, and before the date on which the International Trade Commission (ITC) makes a final affirmative injury determination in this investigation. If our final determination or that of the ITC is negative, the investigation will be terminated.

Dated: February 27, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-5034 Filed 3-6-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-357-501]

Postponement of Final Antidumping Duty Determination; Oil Country Tubular Goods from Argentina

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On February 11, 1986, we received a request from counsel for the respondent Dalmine Siderca S.A.I.C. (Dalsid) in the antidumping duty investigation of oil country tubular goods from Argentina that the final determination be postponed as provided for in section 735(a)(2)(A) of the Tariff Act of 1930, as amended (the Act) (19 U.S.C. 1673d(a)(2)(A)). Pursuant to this request, we are postponing our final antidumping duty determination as to whether sales of oil country tubular goods from Argentina have been made at less than fair value until not later than May 21, 1986.

EFFECTIVE DATE: March 7, 1986.

FOR FURTHER INFORMATION CONTACT: Mary Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-1769.

SUPPLEMENTARY INFORMATION: On August 12, 1985, we published a notice in the **Federal Register** that we were initiating, under section 732(b) of the Act (19 U.S.C. 1673a(b)), an antidumping duty investigation to determine whether imports of oil country tubular goods from Argentina are being, or are likely to be sold at less than fair value (50 FR 33386). We issued our preliminary affirmative determination on January 27, 1986 (50 FR 3387). This notice stated that we would issue a final determination on or before Aoril 8, 1986. On February 11, 1986, counsel for the respondent requested that we extend the period for the final determination until not later than the 135th day after the date of our preliminary determination in accordance with section 735(a)(2)(A) of the Act. This respondent accounts for a significant proportion of exports of the subject merchandise to the United States, and thus is qualified to make this request. In order that this investigation may proceed concurrently with that of oil country tubular goods from Taiwan, we are postponing the date of the final determination until May 21, 1986. Accordingly we grant the request and postpone our final determination until not later than May 21, 1986.

The public hearing is also being postponed until 10:00 a.m. on April 9, 1986, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Accordingly, prehearing briefs must be submitted to the Deputy Assistant Secretary by April 2, 1986.

This notice is published pursuant to section 735(d) of the Act.

John Evans,

Acting Deputy Assistant Secretary for Import Administration.

March 3, 1986.

[FR Doc. 86-5035 Filed 3-6-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-570-504]

Petroleum Wax Candles From the People's Republic of China; Preliminary Determination of Sales at Less Than Fair Value

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice.

SUMMARY: We have amended our preliminary determination that petroleum wax candles from the People's Republic of China (PRC) are being, or are likely to be, sold in the United States at less than fair value. The corrected weighted-average margin applicable to all exporters is 135.73 percent.

EFFECTIVE DATE: March 7, 1986.

FOR FURTHER INFORMATION CONTACT: Michael Ready or Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-2613 or 377-1769.

SUPPLEMENTARY INFORMATION: On February 19, 1986, we published our preliminary determination that petroleum wax candles from the PRC are being, or are likely to be sold in the United States at less than fair value (51 F.R. 6016). We have subsequently learned of errors in the import statistics upon which we based our calculation of foreign market value. Specifically, the value recorded for a shipment from Malaysia was understated. Also the country of origin of a shipment of candles from the PRC was erroneously recorded as being Guinea. In fact there were no imports of the subject merchandise from Guinea during the period of investigation. Using corrected statistics regarding imports of candles from Malaysia, we recalculated foreign

market value and the weighted-average dumping margin. The United States Customs Service shall require a cash deposit or the posting of a bond equal to the corrected estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price as shown in the table below.

Manufacturer/producer/exporter	Weighted-average margin percentage
China National Native Produce & Animal By-Products Import & Export Corporation	135.73
All others	135.73

John L. Evans,

Acting Deputy Assistant Secretary for Import Administration.

March 3, 1986

[FR Doc. 86-5036 Filed 3-6-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-505]

Preliminary Affirmative Countervailing Duty Determination; Porcelain-on-Steel Cooking Ware From Mexico

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers, or exporters in Mexico of porcelain-on-steel cooking ware. The estimated net subsidy is 2.29 percent *ad valorem*.

We have notified the United States International Trade Commission (ITC) of our determination. We are directing the U.S. Customs Service to suspend liquidation of all entries of porcelain-on-steel cooking ware from Mexico that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice, and to require a cash deposit or bond on entries of these products in an amount equal to the estimated net subsidy.

If this investigation proceeds normally, we will make our final determination by May 13, 1986.

EFFECTIVE DATE: March 7, 1986.

FOR FURTHER INFORMATION CONTACT: Betsy Killian or Mary Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-1673 or 377-2830.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon the questionnaire responses, we preliminarily determine that there is reason to believe or suspect that certain benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters in Mexico of porcelain-on-steel cooking ware. For purposes of this investigation, the following programs are preliminarily found to confer subsidies:

- Fund for the Promotion of Exportation of Mexican Manufactured Products (FOMEX).
- Fund for Industrial Development (FONEI).
- Foreign Currency Financing of Imports (PROFIDE).

We preliminarily determine the estimated net subsidy to be 2.29 percent *ad valorem* for all manufacturers, producers, or exporters of porcelain-on-steel cooking ware in Mexico.

Case History

On December 4, 1985, we received a petition in proper form filed by the Porcelain-On-Steel Committee of the Cookware Manufacturers Association and the General Housewares Corporation. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleged that manufacturers, producers, or exporters of porcelain-on-steel cooking ware in Mexico receive, directly or indirectly, subsidies within the meaning of section 701 of the Act and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on December 24, 1985, we initiated this investigation (50 FR 53355). We stated that we expected to issue a preliminary determination by February 27, 1986.

On April 23, 1985, the Office of the United States Trade Representative announced that Mexico is a "country under the Agreement," within the meaning of section 701(b)(2) of the Act. Consequently, Title VII of the Act applies to this investigation, and the ITC is required to determine whether imports of the subject merchandise from Mexico materially injure, or threaten material injury to, a U.S. industry. Therefore, we notified the ITC of our initiation. On January 16, 1986, the ITC determined that there is a reasonable indication that imports of porcelain-on-steel cooking ware from Mexico materially injure a U.S. industry (51 FR 3862).

On January 3, 1986, we presented questionnaires concerning the petitioners' allegations to the government of Mexico in Washington, DC. The government of Mexico, Cinsa, S.A., and Troqueles y Esmaltes, S.A., provided responses to our questionnaires on February 3, 1986.

Scope of the Investigation

The products covered by this investigation are porcelain-on-steel cooking ware, including teakettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel, and are enameled or glazed with vitreous glasses. These products are provided for in items 654.0815, 654.0824 and 654.0827 of the *Tariff Schedules of the United States Annotated* (TSUSA). Kitchen ware, currently reported under item 654.0828 of the TSUSA, is not subject to this investigation.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of this investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984, issue of the **Federal Register** (49 F.R. 18006).

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

In establishing a rate of cash or bond deposit, the Department normally considers program-wide changes that occur before a preliminary determination. On January 1, 1986, the Mexican government raised the interest rate on the Fund for Promotion of Exportation of Manufactured Products (FOMEX) pre-export financing to 44.8 percent and on FOMEX export financing

to 7.4 percent. The Mexican government made these changes in observance of the stipulation in the Understanding, reached between the United States and Mexico regarding subsidies and countervailing duties, that two-thirds of the subsidy element of such financing would be eliminated as of January 1, 1986. If this were a program-wide change, to calculate the cash deposit or bond the Department would compare the January 1986 FOMEX rates to a benchmark based on commercial interest rates as of January 1, 1986. However, because the Department has reason to believe or suspect that the FOMEX rates established as of January 1, 1986 may be effective for only one month and has no information on FOMEX rates after January 1986, we have used the actual rates for FOMEX loans during the review period for purposes of this determination. At verification, we intend to seek clarification of the Mexican government's export financing rates on FOMEX loans.

For purposes of this preliminary determination, the period for which we are measuring subsidies (the review period) is calendar year 1985. Based upon analysis of the petition and the responses to our questionnaries, we preliminarily determine the following:

I. Programs Preliminarily Determined To Confer Subsidies

We preliminarily determine that the following programs provide countervailable subsidies to manufacturers, producers, or exporters of porcelain-on-steel cooking ware in Mexico:

A. FOMEX

FOMEX is a trust of the Secretaria de Hacienda y Credito Publico to promote the manufacture and sale of exported products with the Bank of Mexico acting as the trustee. On July 27, 1983, FOMEX was formally incorporated into the National Bank for Foreign Trade. The National Bank for Foreign Trade administers the financing of FOMEX pre-export and export loans through financial institutions that establish contracts for lines of credit with manufacturers and exporters.

During the review period, exporters could obtain FOMEX pre-export loans denominated in pesos with a maximum nominal annual interest rate of 39.6 percent, or export loans denominated in dollars with a maximum annual interest rate of 6.9 percent. According to the responses, during the review period, both companies under investigation received pre-export peso-denominated FOMEX loans to finance exports to the United States. In addition, Troqueles y Esmaltes, S.A. received export dollar-denominated FOMEX loans.

Because the FOMEX pre-export financing program provides loans for export-related purposes at interest rates significantly lower than those for comparable commercially available loans, we preliminarily determine that this program confers a subsidy upon the exportation of porcelain-on-steel cooking ware.

In prior Mexican countervailing duty cases, we chose as our benchmark the average of the nominal rates published monthly by the Banco de Mexico in the *Indicadores Economicos* (the "IE" rate), which the weighted average for the rates charged by commercial banks on peso loans. However, as of January, 1985, the Banco de Mexico no longer publishes these rates. Therefore, we consider the most appropriate benchmark to be the Banco de Mexico's Costo Porcentual Promedio ("CPP"), the average cost of funds to Mexican banks, plus a spread equal to the average differential between the CPP and the nominal IE rate from 1981 to 1984, the only period for which we have nominal IE rates. Using this information, we have calculated a comparable peso-denominated average loan rate of 61.10 percent for the review period.

With respect to FOMEX export loans, because exporters may obtain dollar-denominated loans from export-related purposes at interest rates lower than those for comparable commercially available loans, we preliminarily determine that this program confers a subsidy upon the exportation of the products under investigation. In the past, to calculate the benefit from the short-term dollar-denominated FOMEX export loans, we used as the benchmark the weighted average of the interest rates for commercial and industrial loans of less than one million dollars from table 1.34 of the *Federal Reserve Bulletin*. The Federal Reserve no longer publishes this table, but includes similar information in table 4.23. The main difference, for our purposes, is that table 4.23 differentiates between fixed-rate and floating-rate loans. Since FOMEX loans carry fixed rates, we have considered only the fixed-rate section of the commercial and industrial loans reported in table 4.23. We continue to exclude loans of greater than one million dollars. Using that information, we conclude that comparable dollar-denominated loans were available commercially at an average rate of 12.93 percent during the review period.

We determined the amount of the benefit from these pre-export and export loans based on the interest rate differentials between the FOMEX financing rates and the applicable aforementioned benchmarks. Because these loans are export-related, we allocated the benefit over the companies' total exports of the products under investigation during the review period. On this basis, we calculated an estimated net subsidy of 1.90 percent *ad valorem*.

B. Fund for Industrial Development (FONEI)

FONEI is a specialized financial development fund administered by the Bank of Mexico, which grants long-term credit at below-market rates for the creation, expansion, or modernization of enterprises in order to foster industrial decentralization and promote the efficient production of goods capable of competition in the international market. FONEI loans are available under various programs having different eligibility requirements.

The responses stated that Troqueles y Esmaltes, S.A. received FONEI loans for investment in equipment. FONEI loans for investment in equipment are only available to companies located outside of Zone IIIA (Mexico City and environs). Because such loans are limited to companies in particular geographic regions and are made at below-market rates, we preliminarily determine that FONEI lonas for investment in equipment confer a subsidy upon the subject merchandise.

Because the interest rates on the FONEI loans under review have changed over the life of the loans, we treated these loans as a series of short-term loans. To evaluate the benefit of these loans, we compared the rates of the FONEI loans to our benchmark, which is equal to the Banco de Mexico's CPP rate plus a spread equal to the average differential between the CPP and the nominal IE rates from 1981 to 1984. We then divided the amount of the benefit (i.e., the difference in the rates of the two loans) by the total sales of all products of the companies under investigation during the review period. In this manner, we calculated an estimated net subsidy of 0.28 percent *ad valorem*.

C. Foreign Currency Financing of Imports (PROFIDE)

PROFIDE, under the auspices of FOMEX, provides exporters with access to dollar-denominated loans with variable interest rates to finance the importation of inputs. These inputs can be used for the production of merchandise for sale in domestic or foreign markets.

The responses stated that only Troqueles y Esmaltes, S.A. received short-term PROFIDE loans during the review period. These loans were used for the production of a variety of products, not only the products under investigation.

Since this loan program is only available to exporters and because the rates of interest on these loans are below our commercial dollar-denominated short-term benchmark (from the *Federal Reserve Bulletin*), we preliminarily determine this program to be countervailable.

To calculate the benefit conferred by these loans, we took the interest rate differential between Troqueles y Esmaltes, S.A.'s PROFIDE loans and our dollar-denominated short-term benchmark. Because these loans are export-related, we allocated the benefit over the total exports of all products by the companies under investigation. On this basis, we calculated an estimated net subsidy of 0.11 percent *ad valorem*.

II. Programs Preliminarily Determined Not To Be Used

We preliminarily determine that the following programs have not been used by the companies that manufacture, produce, or export porcelain-on-steel cooking ware in Mexico:

A. Export Credit Insurance

Under this FOMEX program, exporters may be granted insurance credit against expropriations, defaults and other political risks. Petitioners allege that FOMEX premiums are inadequate to cover the long-term operating risks of the program and that these programs may offer subsidies to exporters. Because the responses stated that both of the companies under investigation did not receive preferential export credit insurance, we preliminarily determine that this program was not used.

B. Accelerated Depreciation

Companies may benefit from accelerated depreciation at preferential rates based on their status as a priority industry or their location in specific regions of the country. The response stated that neither company claimed accelerated depreciation on its tax return filed during the review period; therefore, we preliminarily determine that this program was not used.

C. NAFINSA

Companies in priority areas may receive certain countervailable loans at preferential interest rates through NAFINSA. The responses stated that neither company under investigation received NAFINSA loans, therefore we preliminarily determine that this program was not used.

D. Energy Subsidies

The Mexican government provides subsidies for electrical, fuel and petrochemical purchases of firms locating or expanding in certain zones of the country. The responses stated that the porcelain-on-steel cooking ware companies did not apply to participate in this program. For this reason, we preliminarily determine that this program was not used.

E. Import Duty Reductions and Exemptions

Producers of export products may receive import duty reductions or exemptions on imported machinery and equipment to be used in manufacturing exported products, based on export performance and location within priority zones. The two companies under investigation stated in their responses that they did not use this program. We preliminarily determine, therefore, that this program was not used.

f. Bancomext

Bancomext provides financing for capital investment, production costs, and importation of raw materials for the manufacture of exports. The responses stated that no Bancomext funds were given to the companies under investigation. We preliminarily determine, therefore, that this program was not used.

G. Preferential State Investment Incentives

Certain Mexican states may offer Mexican industries partial or total exemption from state taxes, free or low cost land, or certain local infrastructure improvements as incentives for establishing or expanding industrial facilities, or as incentives for exporting. Since the responses stated that neither company benefitted from state investment incentives, we preliminarily determine that this program was not used.

H. Article 94 Loans

Under section II of Article 94 of the General Law of Credit Institutions and Auxiliary Organizations, the Bank of Mexico provides preferential loans to exporters for the financing of manufactured products and the production and/or inventory of goods produced in Mexico for export. Based on the responses to our questionnaire, we preliminarily determine that this program was not used.

I. Fondo Nacional de Fomento Industrial (FOMIN)

FOMIN operates as a trust fund, providing funding to certain small- and medium-sized companies by either buying stock or providing loans at below-market rates. Since the responses stated this program has not been used by the companies under investigation, we preliminarily determine that it was not used.

J. Guarantee and Development Fund for Medium and Small Industries (FOGAIN)

FOGAIN is a program that provides financing at interest rates below prevailing commercial rates to all small- and medium-sized firms in Mexico. Interest rates vary depending upon whether a small- or medium-sized business has been granted priority status, and whether a business is located in a zone targeted for industrial growth. Since the responses stated that neither company under investigation is eligible to participate in this program, we preliminarily determine that this program was not used.

K. Preferential Federal Tax Credits (CEPROFI)

CEPROFIs are tax credits used to promote National Development Plan (NDP) goals, which include increased employment, encouragement of regional decentralization, and industrial development, particularly of small- and medium-sized firms. CEPROFI tax credits are also granted for investments in plant and equipment and for certain payments relating to increased employment and wages. According to the responses to our questionnaire, this program was not used by the companies under investigation during the review period. Therefore, we preliminarily determine that this program was not used.

L. New Exchange Risks Trust Program (FICORCA II)

Ficorca II, established on February 15, 1984, is a trust fund set up by the Mexican government and the Bank of Mexico operating through the country's credit institutions. The responses stated that this program is similar to Ficorca I (which was terminated on December 20, 1982) and is available to Mexican firms with registered debt in foreign currency as of December 20, 1982 and payable abroad to Mexican credit institutions or foreign financial entities. Such firms may purchase, at a controlled rate, the amount in dollars necessary to pay principal on these loans. Ficorca II also allows companies to receive credit in pesos equal to the amount of dollars

obtained [to pay the principal on their foreign currency loans]. According to the responses, neither company under investigation received benefits under the Ficorca II program. Therefore, we preliminarily determine that this program was not used.

M. Government-Financed Technology Development

Under the Industrial Development Plan 1979–1982–1990, certain Mexican companies may receive grants to purchase technological services for new plants. Based upon the responses to our questionnaire, we preliminarily determine that this program was not used.

N. The Mexican Institute of Foreign Trade (IMCE)

Certain Mexican companies may receive benefits from IMCE, which was created in 1970 to promote Mexican foreign trade by organizing foreign trade fairs, promoting visits of foreign trade missions to Mexico, and providing exporters with technical assistance. On December 20, 1985, the law establishing IMCE was repealed and ICME is currently being dismantled. Because the response stated that neither company received benefits from this program, we preliminarily determine that this program was not used.

O. Trust for Industrial Parks, Cities and Commercial Centers (FIDEIN)

Companies in priority areas may receive low-interest loans or other benefits from FIDEIN, a program aimed at developing industrial parks and cities. The responses stated that neither company under investigation is located in an industrial park. Therefore, we preliminarily determine that this program was not used.

P. Port Facilities

The Mexican porcelain-on-steel cooking ware manufacturers, producers and/or exporters were alleged to have benefitted from preferential rates at Mexican port facilities. The questionnaire responses stated that the companies under investigation did not receive any benefits for the use of port facilities. Thus, we preliminarily determine that this program was not used.

Q. Preferential Vessel, Freight, Terminal, and Insurance Benefits

Certain Mexican companies may benefit from rebates or other discounts on transportation, storage, and insurance expenses involved in exporting products to the United States. Since both companies under investigation stated that they did not receive preferential vessel, freight, terminal, or insurance charges, we preliminarily determine that this program was not used.

IV. Programs for Which Additional Information Is Needed

We preliminarily determine that additional information is needed on the following programs:

A. Drawback Adjusted for Changes in Exchange Rates

The Mexican government may provide an overrebate of import duties. A recent decree published in the *Diario Official* on April 24, 1985, provides that the drawback of import duties may be adjusted by the changing relationship of the peso to the dollar, thus rebating import duties in pesos, but in terms of constant dollars. Since, in recent years, there has been a consistent devaluation of the peso against the dollar, this program may result in the rebate of more duties than were paid. The government's response stated that none of the companies under investigation received drawbacks of import duties for non-physically incorporated inputs, while the companies' responses stated that they did not use this program.

Because the questionnaire responses contained insufficient information with respect to this program (i.e., how the program operates, whether a substitution drawback provision exists, etc.), we preliminarily determine that more information is needed.

B. Temporary Importation Scheme

This scheme exempts exporters from the payment of import duties on inputs physically incorporated into exported products. It also exempts exporters and domestic producers from import duties on non-physically incorporated inputs so long as the imported items remain in Mexico for a defined period of time (as established by the Mexican Customs Law). The response of the government of Mexico states that the firms under investigation have used the temporary importation scheme under the general terms of the Mexican Customs Law. Because the responses of the government of Mexico as well as the companies under investigation are unclear (i.e., how the program operates, the *de facto* and *de jure* availability, what is meant by the "general terms" of the Customs Law, etc.), we preliminarily determine that additional information is needed.

Verification

In accordance with section 776(a) of the Act, we will verify the data used in making our final determination. As previously stated, we will not accept for our final determination any statement in the responses that cannot be verified.

ITC Notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, providing the ITC confirms that it 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.

The ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry 120 days after the Department makes its preliminary affirmative determination or 45 days after its final affirmative determination, whichever is later.

Suspension of Liquidation

In accordance with section 703(d) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of porcelain-on-steel cooking ware from Mexico which are entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice in the **Federal Register**, and to require a cash deposit or bond for each such entry of this merchandise equal to 2.29 percent *ad valorem. This suspension will remain in effect until further notice.*

Public Comment

In accordance with § 355.35 of our regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination at 10:00 a.m. on April 3, 1986, at the U.S. Department of Commerce, Room 1413, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B–099, at the above address within ten (10) days of the publication of this notice.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, pre-hearings in at least ten (10) copies must be submitted to the Deputy Assistant Secretary by March 13, 1986.

Oral presentations will be limited to issues raised in the briefs.

In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, written views will be considered if received not less than 30 days before the final determination or, if a hearing is held, within 10 days after the hearing transcript is available.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Dated: February 27, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-4991 Filed 3-6-86; 8:45 am]

BILLING CODE 3510-05-N

[C-583-509]

Preliminary Negative Countervailing Duty Determination; Porcelain-on-Steel Cooking Ware from Taiwan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminary determine that no benefits which constitute subsidies within the meaning of the countervailing duty law are being provided to manufacturers, producers or exporters of porcelain-on-steel cooking ware in Taiwan. The estimated net subsidy is 0.005 percent *ad valorem*. This rate is *de minimis*, and therefore our preliminary countervailing duty determination is negative. We have notified the United States International Trade Commission (ITC) of our determination.

If this investigation proceeds normally, we will make our final determination by May 13, 1986.

EFFECTIVE DATE: March 7, 1986.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita or Mary Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-0189 or (202) 377-2830.

SUPPLEMENTARY INFORMATION:

Preliminary Determination

Based upon the questionnaire responses, we preliminarily determine that the following program is countervailable:

- Export Loss Reserves.

We preliminarily determine the estimated net subsidy to be 0.005 percent *ad valorem*. Although we have determined this program to be countervailable, the respondents received *de minimis* benefits during the review period. Therefore, we determine that no benefits which constitute subsidies within the meaning of section 701 of the Tariff Act of 1930, as amended (the Act), are being provided to manufacturers, producers, or exporters of porcelain-on-steel cooking ware in Taiwan.

Case History

On December 4, 1985, we received a petition in proper form filed by the Porcelain-on-Steel Committee of the Cookware Manufacturers Association and the General Housewares Corporation. In compliance with the filing requirements of § 355.26 of our Regulations (19 CFR 355.26), the petition alleged that manufacturers, producers, or exporters of porcelain-on-steel cooking ware in Taiwan receive, directly or indirectly, subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on December 24, 1985, we initiated the investigation (50 FR 53354). We stated that we expect to issue a preliminary determination by February 27, 1986.

Since Taiwan is entitled to an injury determination under section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from Taiwan materially injure, or threaten material injury to, a U.S. industry. Therefore, we notified the ITC of our initiation. On January 16, 1986, the ITC determined that there is a reasonable indication that imports of porcelain-on-steel cooking ware from Taiwan materially injure a U.S. industry (51 FR 3862).

We received a timely request for exclusion from any countervailing duty order from Four Star International Trading Company (Four Star), an exporter of porcelain-on-steel cooking ware from Taiwan, who indicated that they receive no benefits under the countervailing duty law. On February 14, 1986, the Department requested that the authorities on Taiwan certify whether Four Star received any benefits from the programs under investigation.

On January 3, 1986, we presented questionnaires concerning the petitioners' allegations to the American Institute in Taiwan in Washington, D.C. Responses to the questionnaires were received on February 6, 1986 and February 18, 1986.

Scope of Investigation

The products covered by this investigation are porcelain-on-steel cooking ware, including teakettles, which do not have self-contained electric heating elements. All of the foregoing are constructed of steel, and are enameled or glazed with vitreous glasses. These products are provided for in items 654.0815, 654.0824 and 654.0827 of the *Tariff Schedules of the United States, Annotated (TSUSA)*. Kitchen ware, currently provided for under item 654.0828 of the *TSUSA*, is not subject to this investigation.

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina; Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1984, issue of the **Federal Register** (49 FR 18006).

Consistent with our practice in preliminary determinations, where a response to an allegation denies the existence of a program, receipt of benefits, or eligibility of a company or industry under a program, and the Department has no persuasive evidence showing that the response is incorrect, we accept the response for purposes of the preliminary determination. All such responses are subject to verification. If the response cannot be supported at verification, and the program is otherwise countervailable, the program will be considered a subsidy in the final determination.

For purposes of this preliminary determination, the period for which we are measuring subsidies (the review period) is calendar year 1985. Based upon our analysis of the petition and the responses to our questionnaires, we preliminarily determine the following:

I. Program Preliminarily Determined to be Counterviable

We preliminarily determine that the following program provides countervailable benefits to manufacturers, producers, or exporters of porcelain-on-steel cooking ware in Taiwan.

A. Export Loss Reserves

Article 31 of the Statute for Encouragement of Investment (SEI) permits exporters to establish an export loss reserve of up to one percent of the previous year's export exchange

settlement to be used exclusively for compensating export losses. Companies treat the export loss reserve as a business expense and deduct it from taxable income in one year, then balance the account and carry the reserve funds forward as taxable income for the next year. Tian Shine Enterprise Co., Ltd. (Tian Shine), a producer of porcelain-on-steel cooking ware, reported that it used this program during the review period.

Because export loss reserves are contingent on export sales, we preliminarily determine that it confers a benefit which constitutes an export subsidy. To calculate the benefit, we treated tax savings from the export loss reserve as a one-year interest-free loan. We compared the interest-free rate with the maximum lending rate set by the Central Bank, multiplied the difference by the amount of the tax savings, then allocated the benefit over the value of Tian Shine's 1985 exports of porcelain-on-steel cooking ware. The estimated net subsidy is 0.005 percent *ad valorem.*

II. Programs Preliminarily Determined Not to be Used

We preliminarily determine that the following programs are not used by the manufacturers, producers, or exporters of porcelain-on-steel cooking ware in Taiwan:

A. Preferential Export Financing

The Export Loan Discount Regulations of the Central Bank of China permit registered exporters to apply for low-cost export loans upon presentation of a letter of credit. Authorized commercial banks provide export loans at normal commercial rates, then apply for interest-rate reductions from the Central Bank. If the Central Bank approves the reduction, commercial banks correspondingly reduce the lending rate to the exporters.

The responses stated that none of the companies under investigation obtained export financing under the Export Loan Discount Regulations of the Central Bank of China. Therefore, we preliminarily determine this program was not used.

B. Preferential Income Tax Ceiling—22 Percent

Article 15 of the SEI permits capital-intensive and/or technology-intensive enterprises engaged in the basic metal production industry, heavy machinery industry, or petrochemical industry to use a marginal tax rate of 22 percent instead of the 25- or 35-percent rate required by Taiwan's graduated income tax law.

The responses stated that none of the companies under investigation claimed the 22-percent income tax rate. Therefore, we preliminarily determine this program was not used.

C. Accelerated Depreciation and Tax Holiday

Article 6 of the SEI allows newly established "productive enterprises" to accelerate depreciation on fixed assets, machinery and equipment or to select a five-year holiday on corporate income taxes. In addition, expanding firms may participate in a four-year tax holiday on increased profits from expansion or a rapid depreciation of newly purchased buildings or equipment.

The responses stated that none of the companies under investigation received benefits under Article 6 of the SEI. Therefore, we preliminarily determine this program was not used.

D. Duty Exemptions and Deferrals on Imported Equipment

Article 21 of the SEI allows productive enterprises to pay import duties and dues on selected capital equipment in a series of installments beginning one year from the date of importation. In addition, qualified enterprises are exempt from import duties on selected machinery and equipment used for the establishment or expansion of an approved project or for research and development.

The responses stated that none of the companies under investigation used dtuy exemptions or deferrals on imported equipment. Therefore, we preliminarily determine this program was not used.

E. Preferential Long-Term Loans

Article 84 of the SEI permits the Executive Yuan to establish and administer a special development fund to promote investments of interest to national economic development. The response stated that none of the companies under investigation obtained Article 84 loans. Therefore, we preliminarily determine this program was not used.

Verification

In accordance with section 776(a) of the Act, we will verify all data used in making our final determination. As previously stated, we will not accept for our final determination any statement in the responses that cannot be verified.

ITC notification

In accordance with section 703(f) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all non-privileged and non-confidential information relating to this investigation. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it 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 our final determination is affirmative, the ITC will determine whether these imports materially injure, or threaten material injury to, a U.S. industry within 75 days after the Department makes its final affirmative determination.

Public Comment

In accordance with § 355.35 of our regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on this preliminary determination at 10 a.m. on April 14, 1986, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue NW., Washington, DC 20230. Individuals who wish to participtate in the hearing must submit a request to the Deputy Assistant Secretary for Import Administration, Room B–099, at the above address within 10 days of the publication of this notice.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, pre-hearing briefs with at least 10 copies must be submitted to the Deputy Assitant Secretary by April 7, 1986. Oral presentations will be limited to issues raised in the briefs.

In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, written views will be considered if received not less than 30 days before the final determination or, if a hearing is held, within 10 days after the hearing transcript is available.

This notice is published pursuant to section 703(f) of the Act (19 U.S.C. 1671b(f)).

Dated: February 27, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

[FR Doc. 86–4992 Filed 3–6–86; 8:45 am]

BILLING CODE 3510-DS-M

[C-489-502]

Countervailing Duty Order; Certain Welded Carbon Steel Pipe and Tube Products from Turkey

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: In its investigation, the United States Department of Commerce (the Department) determined that certain welded carbon steel pipe and tube products (standard pipe and tube, and line pipe) from Turkey are receiving benefits which constitute subsidies within the meaning of the countervailing duty law. In a separate investigation, the United States International Trade Commission (ITC) determined that an industry in the United States is materially injured, or threatened with material injury, by reason of imports of standard pipe and tube from Turkey, and that an industry in the United States is threatened with material injury by reason of imports of line pipe from Turkey.

Therefore, based on these findings, all entries, or withdrawals from warehouse, for consumption of standard pipe and tube from Turkey, on or after October 28, 1985, the date on which the Department published its preliminary countervailing duty determinations in the **Federal Register**, will be liable for the possible assessment of countervailing duties. In addition, all entries, or withdrawals from warehouse, for consumption of line pipe from Turkey, on or after March 3, 1986, the date on which the ITC published its final affirmative injury determination in the **Federal Register**, will be liable for the possible assessment of countervailing duties.

EFFECTIVE DATE: March 7, 1986.

FOR FURTHER INFORMATION CONTACT: Peter Sultan or Mary Martin, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230, telephone: (202) 377-1439 (Sultan) or (202) 377-2830 (Martin).

SUPPLEMENTARY INFORMATION: The products covered by this order are:

(1) Welded carbon steel pipe and tube, with an outside diameter of .375 inch or more, but not over 16 inches, of any wall thickness, currently classifiable in the *Tariff Schedules of the United States, Annotated* (TSUSA), under items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258, and 610.4925. These products, commonly referred to in the industry as standard pipe or tube, are produced to various ASTM specifications, most notably A-120, A-53 or A-135; and

(2) Welded carbon steel line pipe with an outside diameter of .375 inch or more, but not over 16 inches, and with a wall thickness of not less than .065 inch, currently classifiable in the TSUSA, under items 610.3208 and 610.3209. These products are produced to various American Petroleum Institute (API) specifications for line pipe, most notably API-L or API-LX.

In accordance with section 703 of the Act (19 U.S.C. 1671b), on October 28, 1985, the Department published preliminary determinations which stated that there was reason to believe or suspect that imports of certain welded carbon steel pipe and tube products from Turkey received benefits which constitute subsidies within the meaning of the countervailing duty law (50 FR 43597). In accordance with section 705 of the Act (19 U.S.C. 1671b), on January 6, 1986, the Department published its final determinations that these imports are being subsidized (51 FR 1268).

On February 21, 1986, in accordance with section 705(d) of the Act (19 U.S.C. 1671d), the ITC notified the Department of its determinations that imports of standard pipe and tube from Turkey materially injure a U.S. industry, or threaten a U.S. industry with material injury, and that imports of line pipe from Turkey threaten a U.S. industry with material injury.

Therefore, in accordance with section 706 of the Act (19 U.S.C. 1671e), the Department directs the United States Customs Service to assess, upon further advice by the administering authority pursuant to section 706(a)(1) and 751 of the Act [19 U.S.C. 1671e(a)(1) and 1675], countervailing duties equal to the amount of the estimated net subsidy for all entries of certain welded carbon steel pipe and tube products from Turkey. These countervailing duties will be assessed on all unliquidated entries of standard pipe and tube from Turkey entered, or withdrawn from warehouse, for consumption, on or after October 28, 1985, the date on which the Department published its notice of "Preliminary Affirmative Countervailing Duty Determinations" in the **Federal Register**. In accordance with section 706(b)(2) of the Act [19 U.S.C. 1671e(b)(2)], countervailing duties will be assessed on all unliquidated entries of line pipe from Turkey entered, or withdrawn from warehouse, for consumption, on or after March 3, 1986, the date on which the ITC published notice of its final affirmative injury determinations. The Department also directs that suspension of liquidation be lifted for all entries of line pipe from Turkey entered, or withdrawn from warehouse, for consumption, before March 3, 1986, and that all estimated countervailing duties deposited on such entries be refunded and the appropriate bonds or other security be released.

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 customs duties on this merchandise, a cash deposit of 17.80 percent *ad valorem* on all entries of certain welded carbon steel pipe and tube products from Turkey. This determination constitutes a countervailing duty order with respect to certain welded carbon steel pipe and tube products from Turkey pursuant to section 706 of the Act (19 U.S.C. 1671e) and § 355.36 of the Commerce Regulations (19 CFR 355.36).

We have deleted from the Commerce Regulations Annex III to 19 CFR Part 355, which listed countervailing duty orders currently in effect. Instead, interested parties may contact the Office of Information Services, Import Administration, for copies of an updated list of orders currently in effect.

Notice of Review

In accordance with section 751(a)(1) of the Act [19 U.S.C. 1675(a)(1)], the Department hereby gives notice that, if requested, it will commence an administrative review of this order. For further information regarding this review, contact Mr. Richard Moreland at (202) 377-2786.

This notice is published in accordance with section 706 of the Act (19 U.S.C. 1671e) and § 355.36 of the Commerce Regulations (19 CFR 355.36).

Dated February 28, 1986.

John L. Evans,

Acting Deputy Assistant Secretary for Import Administration.

[FR Doc. 86-4990 Filed 3-6-86; 8:45 am]

BILLING CODE 3510-05-M

Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes; State University of New York et al.

This is a decision consolidated pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301).

Related records can be viewed between 8:30 a.m. and 5:00 p.m. in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 86–026. Applicant: State University of New York at Buffalo, Buffalo, NY 14214. Instrument: Electron Microscope, Model JEM–100CXII with Accessories (Side Entry Type). Manufacturer: JEOL, Ltd., Japan. Intended use: See notice at 50 FR 46806. Instrument ordered: April 15, 1986.

Docket No. 86–030. Applicant: California State University, Dominquez Hills, Carson, CA 90747. Instrument: Electron Microscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 50 FR 48450. Instrument ordered: September 6, 1985.

Docket No. 86–035. Applicant: Mount Sinai School of Medicine of the City of New York, New York, NY 10029. Instrument: Electron Microscope, Model EM 10CA/C/CR with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 50 FR 48451. Application received by Commissioner of Customs: November 1, 1985.

Docket No. 86–040. Applicant: Good Samaritan Hospital and Medical Center, Portland, OR 97210. Instrument: Electron Microscope, Model EM 10CA with Accessories. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 50 FR 48451. Application received by Commissioner of Customs: October 31, 1985.

Docket No. 86–018. Applicant: Rutgers University, Piscataway, NJ 08854. Instrument: Electron Microscope, Model JEM–100CX. Manufacturer: JEOL, Ltd., Japan. Intended use: See notice at 51 FR 3485. Instrument Ordered: May 13, 1985.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as these instruments are intended to be used, was being manufactured in the United States at the time the instruments were ordered.

Reasons: Each foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States either at the time of order of each instrument or at the time of receipt of application by the U.S. Customs Service.

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

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–4993 Filed 3–6–86; 8:45 am]

BILLING CODE 3510-DS-M

University of Arizona Foundation; Decision on Application for Duty-Free Entry of Scientific Instrument

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

Docket No. 86–061. Applicant: University of Arizona Foundation, Tucson, AZ 85721. Instrument: ICP Quadrupole Mass Spectrometer. Manufacturer: VG instruments Inc., United Kingdom. Intended use: See notice at 51 FR 667.

Comments: None received.

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

Reasons: The foreign instrument provides simultaneous qualitative and quantitative data for trace metal and major cations and abundance sensitivity of at least 10^{-5} for both high and low mass. This capability is pertinent to the applicant's intended purpose. We know of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

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

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86–4994 Filed 3–6–86; 8:45 am]

BILLING CODE 3510-DS–M

University of Illinois Urbana-Champaign Campus; Consolidated Decision on Applications for Duty-Free Entry of Accessories for Foreign Instruments

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

Docket No. 86–048. Applicant: University of Illinois Urbana-Champaign Campus, Urbana, IL 61801. Instrument: Electron Energy Analyzer, Model EA10/100 with Accessories. Manufacturer: Leybold-Heraeus Vacuum Products Inc., West Germany. Intended Use: See notice at 50 FR 52821.

Comments: none received.

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

Reasons: This application relates to an accessory for an existing instrument. The accessory is pertinent to the applicant's intended use.

We know of no similar accessory manufactured in the United States scientifically equivalent to the foreign article for the intended use.

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

Frank W. Creel,

Director, Statutory Import Progams Staff.

[FR Doc. 86–4995 Filed 3–6–86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Sanctuaries; Weeks Bay, AL

AGENCY: National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: NOAA is announcing that on February 19, 1986 the Assistant Administrator for NOS (NOAA) designated Weeks Bay, Alabama as a National Estuarine Sanctuary under authority of section 315 of the Coastal Zone Management Act, 16 U.S.C. 1461(1), and the National Estuarine Sanctuary Program Regulations, 15 CFR Part 921.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Lindelof, Sanctuary Programs Division, 3300 Whitehaven Street NW., Washington, DC 20235, 202/634–4236 or Mr. Sherman Shores, Alabama Department of Economic and Community Affairs, Montgomery, Alabama 36105, 205/284–8784.

SUPPLEMENTARY INFORMATION: Section 315 of the Coastal Zone Mangement Act, 16 U.S.C. 1461(1), and implementing regulations at 15 CFR Part 921 established the National Estuarine Sanctuary Program (NESP). The purpose of the NESP is for ". . . acquiring,

developing, or operating estuarine sanctuaries to serve as natural field laboratories in which to study and gather data on the natural and human processes occurring within the estuaries of the coastal zone . . ."

NOAA provides financial assistance to States on a fifty percent matching basis for land acquisition and development of research, education, and resource protection programs for the estuarine sanctuary.

A Draft Environmental Impact Statement and Management Plan for an Estuarine Sanctuary at Weeks Bay, Alabama was distributed to Federal and State agencies and the general public for review in September 1984. During the comment period, a public hearing was held in Fairhope, Alabama, to receive input on the proposed designation by NOAA and/or the plan proposed by the State to manage the site. Based on the written comments received and testimony presented during the public hearing, NOAA prepared a Final Environmental Impact Statement/ Management Plan. The FEIS was distributed December 6, 1985. The 30 day comment period ended January 6, 1986. On February 19, 1986, Weeks Bay, Alabama, and portions of adjacent wetlands and fastlands were designated as a National Estuarine Sanctuary.

The boundary of the Sanctuary consists of the 1,718 acres of the waters constituting Weeks Bay up to mean high water (mhw), including the tidal reaches of the rivers and tributaries which drain into the embayment. The boundaries of the estuarine sanctuary also include 335 acres of fastland (property above mhw) within an "ecological core" between the mouths of the Fish and Magnolia Rivers and a 615-acre parcel possessing nearly 3 miles of shoreline frontage lying immediately south of Weeks Bay. The designation will result in the implementation of a plan which will establish a comprehensive management framework for carrying out surveillance and enforcement, resource studies, and interpretive programs.

Under the management scheme no new regulations have been proposed. The Interpretive Program provides a broad-based public education agenda that includes on-site and off-site activities geared to all visitors and users of the Sanctuary's resources. A Resource Studies Plan proposes to gather baseline data, monitor and assess water quality, and conduct comparative estuarine studies and wildlife research projects. Data from these studies will be used as the basis for improving coastal resource management decisions by the State and providing for the long-term protection of the Weeks Bay ecosystem.

(Federal Domestic Assistance Catalog No. 11.420 Coastal Zone Management Estuarine Sanctuaries)

[FR Doc. 86-4936 Filed 3-6-86; 8:45 am]

BILLING CODE 3510-08-M

DEPARTMENT OF DEFENSE

Army Department

Army Science Board (ASB); Partially Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of the Committee: Army Science Board (ASB).

Dates of Meeting: Monday-Wednesday, 24-26 March 1986.

Place: Ft. McNair, Washington, DC 20319.

Time:

24 March 1986, 1300-1700, C³I FSG, Pentagon, Closed Mtg

24 March 1986, 0900-1200, Weapons FSG, Pentagon, Closed Mtg

25 March 1986, 0730-1730, General Membership Mtg, Open Mtg

26 March 1986, 0830-1630, Log FSG, Pentagon, Closed Mtg

26 March 1986, 0815-1645, Human Capabilities & Resources FSG, Pentagon, Open Mtg.

Agenda: The 1986 Army Science Board General Membership Meeting program will include briefings of all Ad Hoc Subgroups and Summer Studies, and will include four Functional Subgroup meetings. The open portions of the meeting are open to the public. Any person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the committee. The closed portions of the meeting are closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed in this portion of the meeting are so inextricably intertwined so as to preclude opening them to the public. The Army Science Board Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86-5032 Filed 3-6-86; 8:45 am]

BILLING CODE 3710-08-M

Army Science Board (ASB) TRADOC Operations Research Activity Ad Hoc Subgroup; Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Committee Meeting:

Name of Committee: Army Science Board (ASB), TRADOC Operations Research Activity Ad Hoc Subgroup.

Dates of Meeting: Thursday and Friday, 27-28 March 1986.

Times of Meeting: 0830-1630 hours.

Place: The Pentagon, Washington, DC 20310.

Agenda: The Army Science Board Ad Hoc Subgroup for TRADOC Operations Research Activity (TORA) will meet for briefings by TRADOC Headquarters and selected industry representatives. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and nonclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 86-5031 Filed 3-6-86; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

Education Appeal Board Hearings; Intent To Compromise Claim; California Department of Education

AGENCY: Department of Education.

ACTION: Notice of Intent to Compromise Claim.

SUMMARY: Notice is given that the Department intends to compromise a claim against the California Department of Education now pending before the Education Appeal Board (EAB), Docket No. 39-(171)-84 (20 U.S.C. 1234a(f)).

DATE: Interested persons may comment on the proposed action by submitting written data, views, or arguments on or before April 21, 1986.

ADDRESS: Comments should be addressed to Effie Forde-Williamson, Esq., Office of the General Counsel, U.S. Department of Education, 400 Maryland Avenue, SW. (Room 4091, FOB-6), Washington, DC 20202.

SUPPLEMENTARY INFORMATION: The claim in question arose from an audit conducted by the Office of Inspector General in the U.S. Department of Education. The auditors examined programs funded under Title I of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 *et seq.*) (Title I) as administered by the California Department of Education (SEA) and as implemented by the Richmond Unified

School District during the period from July 1, 1980 through June 30, 1982.

Under Title I, Federal funds were provided to local educational agencies (LEAs) through SEAs such as the California Department of Education, for programs "which contribute[d] particularly to meeting the special educational needs of educationally deprived children" in areas with high concentrations of children from low-income families (20 U.S.C. 2701). Title I funds could be used only to provide supplemental educational services to children who were both educationally deprived and resided in specified low-income areas. SEAs had the responsibility for administering the Title I program. In order to participate in Title I, an SEA had to provide assurances that Title I funds would be used only for projects that met all the Title I requirements and that had been approved by the SEA.

During the course of the audit, the auditors discovered that the Richmond Unified School District had charged to its Title I project costs for certain expenses which were not directly related to the Title I program. For example, the auditors found that certain State Board Meetings and training conferences were either not directly related to the Title I program, not for the primary purpose of disseminating technical information related to the Title I program, or not necessary for the efficient operation of the program. Therefore, the auditors concluded that these costs were not allowable. Based on these findings, the Assistant Secretary for Elementary and Secondary Education notified the SEA in a final determination letter dated August 15, 1984 that the SEA had to repay $21,255 for the misexpenditure of Title I funds by the Richmond Unified School District.

The SEA did not contest $3,046 of the $21,255, leaving a balance of $18,209 in dispute. The SEA appealed the remaining amount to the EAB.

The Department proposes to compromise the full amount of the claim of $21,255 for $12,150. This $12,150 includes the $3,046 which the SEA did not contest, plus an additional $9,104. Given the percentage of the amount being repaid and the cost of litigating the claim through the appeal process, the Department has determined that it would not be practical or in the public interest to continue this proceeding. Moreover, the Department is satisfied that the practice which resulted in the claim has been corrected and will not recur

The public is invited to comment on the Department's intent to compromise this claim. Additional information may be obtained by writing to Effie Forde-Williamson, Esq. at the address given at the beginning of this notice.

(20 U.S.C. 1234a(f))

(Catalog of Federal Domestic Assistance No. 84.010, Educationally Deprived Children—Local Educational Agencies and No. 84.012, Educationally Deprived Children—State Administration)

Dated: March 5, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86-5118 Filed 3-6-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Bonneville Power Administration

Proposed Amendment of Rate Schedule NF-85 and Opportunity for Public Review and Comment

AGENCY: Bonneville Power Administration (BPA), DOE.

ACTION: Notice; Request for Comments. *BPA File No:* NF-85.

SUMMARY: Pursuant to section 7(i) of the Pacific Northwest Electric Power Planning and Conservation Act (Northwest Power Act), 16 U.S.C. 839e(i), the Bonneville Power Administration (BPA) proposes to modify nonfirm energy rate schedule NF-85.

Responsible Official: Shirley Melton is the responsible official.

DATE: Deadline for filing comments is 5 p.m., March 18, 1986.

ADDRESSES: Written comments should be submitted to Ms. Donna L. Geiger, Public Involvement Manager, Bonneville Power Administration, P.O. Box 12999, Portland, Oregon 97212. BPA File No. NF-85 should be referenced in all comments.

FOR FURTHER INFORMATION CONTACT: Kathleen S. Johnson, Public Involvement office, at the address listed above, 503-230-3478. Oregon callers outside Portland may use 800-452-8429; callers in California, Idaho, Montana, Nevada, Utah, Wyoming, and Washington may use 800-547-6048. Information may also be obtained from:

Mr. Terence G. Esvelt, Puget Sound Area Manager, Room 250, 415 First Avenue North, Seatttle, Washington 98109, 206-442-4130.

Mr. George E. Gwinnutt, Lower Columbia Area Manager, Suite 288, 1500 Plaza Building, 1500 NE. Irving Street, Portland, Oregon 97208, 505-230-4551.

Mr. Ladd Sutton, Eugene District Manager, Room 206, 211 East Seventh Street, Eugene, Oregon 97401, 503-687-6952.

Mr. Wayne R. Lee, Upper Columbia Area Manger, Room 561, West 920 Riverside Avenue, Spokane, Washington 99201, 509-456-2518.

Mr. Ronald K. Rodewald, Wenatchee District Manager, P.O. Box 741, Wenatchee, Washington 98801, 509-662-4377, extension 379.

Mr. George E. Eskridge, Montana District Manager, 800 Kensington, Missoula, Montana 59801, 406-329-3060.

Mr. Thomas Wagenhoffer, Snake River Area Manager, West 101 Poplar, Walla Walla, Washington 99362, 509-522-6226, extension 701.

Mr. Robert N. Laffel, Idaho Falls District Manager, 531 Lomax Street, Idaho Falls, Idaho 83401, 208-523-2706.

Mr. Frederic D. Rettenmund, Boise District Manager, Federal Building, 550 W. Fort Street, Rm 376, Bosie, Idaho 83724, 208-334-9137.

SUPPLEMENTARY INFORMATION

I. Background

BPA sells nonfirm energy under its NF-85 rate schedule, which specifies several prices. The NF-85 rate became effective July 1, 1985, and will remain in place through September 30, 1987.

The majority of BPA's nonfirm energy is sold to utilities in California, which generally use this energy in place of generating resources that run on natural gas and oil. In the past, relatively high gas and oil prices have allowed BPA to successfully sell its nonfirm energy in California at a price approximating BPA's costs of production and transmission. Currently that price is 23.4 mills per kilowatthour, which is the sum of the NF-85 Standard rate (22.2 mills per kilowatthour) and an adder for transmission over the Pacific Northwest-Pacific Southwest Intertie (1.2 mills per kilowatthour).

The recent and continuing decline in oil and gas prices in Calfornia has severely jeopardized BPA's ability to market its nonfirm energy in California at 23.4 mills per kilowatthour. In many cases the cost of generating electricity with oil and gas is now below the NF-85 Standard rate, making energy priced at the Standard rate, making energy priced at the Standard rate uneconomic to California utiltiies. Therefore, BPA proposes to increase the marketability of its nonfirm energy by selling at a lower-priced rate available in the NF-85

schedule: The 18.1 mill per kilowatthour Contract rate.

II. Proposed Amendment to NF–85 Rate Schedule

The current NF–85 rate schedule indicates that the Contract rate is applicable to contracts that refer to the Contract rate. The schedule does not state that the Contract rate, like other NF–85 rate components, is available for marketing on an hourly basis. BPA therefore proposes to amend Section V. E. of the schedule by adding the following paragraph:

In order to increase the marketability of Nonfirm Energy, the Contract Rate may be used in lieu of the Standard Rate for sales on an hourly basis, notwithstanding whether BPA and a purchaser have executed a contract that refers to the Contract Rate. Hourly Contract Rate sales for delivery over the Pacific Northwest-Pacific Southwest Intertie shall not include the Intertie Service charge specified in Section III. B. Hourly Contract Rate sales may be offered on a guaranteed basis as specified under Section VI. B., in which case the guaranteed delivery surcharge specified in Section III A. 1. will apply.

Use of the Contract rate in this manner will give BPA the flexibility to collect as much of the costs of nonfirm energy as possible and will yield revenues that enhance BPA's ability to meet its repayment obligations to the U.S. Treasury.

III. Reopening of the Record

BPA developed the NF–85 rate through a lengthy hearing process undertaken in 1984 and 1985 pursuant to section 7(i) of the Northwest Power Act. 16 U.S.C. 839e(i). This process culminated in the Administrator's Record of Decision (ROD), the decisionmaking document containing BPA's final rate determinations. The ROD together with the entire hearing record was filed with the Federal Energy Regulatory Commission (FERC) pursuant to section 7(i)(6) of the Northwest Power Act. 16 U.S.C. 839e(i)(6). FERC ordered the NF–85 rate to become effective as of July 1, 1985. 31 FERC ¶ 61,388 (1985).

BPA proposes to reopen the record compiled under section 7(i) for the sole purpose of amending application of the NF–85 Contract rate, as described above. BPA proposes to take official notice of the fact of declining gas and oil prices in California. This fact, together with the evidence contained in the existing record, fully supports the proposed rate amendment.

On or about March 4, 1986, BPA will issue a Draft ROD containing the facts proposed to be officially noticed and a discussion of the rationale and evidence in the existing record supporting the proposed rate amendment. Parties to BPA's 1985 rate case will be given an opportunity to file Briefs on Exception to the Draft ROD on or about March 18, 1986. Participants in BPA's 1985 rate case will be given an opportunity to submit comments on or about March 18, 1986. After consideration of all comments received, BPA proposes to issue a final ROD on or about March 25, 1986. At the same time BPA will file its ROD with the FERC and seek rate approval effective on or about April 16.

Authority: Section 7(i) of the Northwest Power Act. 16 U.S.C. 839e(i).

In consideration of the foregoing, BPA solicits comments regarding the proposed modification of rate schedule NF–85.

Issued in Portland, Oregon, February 28, 1986.

Peter T. Johnson,

Administrator, Bonneville Power Administration.

[FR Doc. 86–5143 Filed 3–6–86; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. ER86–313–000]

Central Louisiana Electric Co., Inc.; Notice of Filing

February 26, 1986.

Take notice that on February 21, 1986, Central Louisiana Electric Company, Inc. (CLECO) submitted for filing a copy of an executed contract for the sale of Replacement Energy by CLECO to the City of Alexandria.

CLECO requests an effective date of January 1, 1986 and therefore request waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest the application 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 214 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before March 10, 1986. 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–4966 Filed 3–6–86; 8:45 am]

BILLING CODE 6717–01–M

[Docket No. RP78–024

Columbia Gas Transmission Corp.; Declaratory Order February 28, 1986.

Take notice that on February 13, 1986, Corning Glass Works (Corning), Shenandoah Gas Company (Shenandoah) and West Virginia Public Service Commission (PSC) jointly filed pursuant to Rule 207(a)(2) [1] a petition for a declaratory order.[2] Petitioners request the Commission to issue an order declaring that the Cost Verification Committee (CVC) established by the Commission in Opinion No. 101 [3] has the authority to receive and consider Corning's claims for reimbursement of costs Corning incurred to convert its facilities to receive and use LNG supplied by Columbia through shenandoah. Petitioners further request the Commission to order Columbia to pay Corning all amounts approved by the CVC.

Petitioners allege that Opinion No. 101 does not state whether any particular from of state proceeding or order is a condition precedent to Columbia's obligation to reimburse Corning through Shenandoah. Petitioners assert that the joining of the PSC and Shenandoah with Corning in the instant petition satisfies the substantive concerns of comity with the state and the avoidance of windfall to Shenandoah that gave rise to the Commission's initial refusal to require direct reimbursement of indirect customers.

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

[1] 18 C.F.R. 385.207(a)(2)(1985).

[2] Although the joint petition was physically filed on January 24, 1986, according to § 381.103(b)(2)(iii) of the Commission's regulations (18 CFR 381.103(b)(2)(iii)), the date of filing is the date on which the Commission receives the appropriate filing fee, which in the instant case was not until February 13, 1986.

[3] Columbia Gas Transmission Corp., 13 FERC ¶ 61,102 (1980), *reh'g denied*, 14 FERC ¶ 61,073 (1981), *Aff'd sub nom*, Corning Glass Works v. FERC, 675 F.2d 392 (D.C. Cir. 1982). Petitioners claim that in Opinion No. 101 the Commission found that direct wholesale customers of Columbia could recover for costs incurred in adjusting their facilities to use LNG upon verification of such costs by the CVC, but that an indirect customer such as Corning could not recover such costs unless and until the proper state authority first decided that the indirect customer should recover through or from the direct customer.

North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and procedure (18 CFR 385.214, 385.211 (1985)) All such motions or protest should be filed on or before March 21, 1986. 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. 86-4967 Filed 3-6-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER86-230-000 and ER86-76 001]

Commonwealth Edison Co.; Order Summarily Rejecting Filing in Part and Ordering New Filing, Granting Waiver, Granting Interventions, Establishing Hearing Procedures, and Granting Motion To Consolidate

Issued February 28, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

On January 3, 1986, Commonwealth Edison Company (Edison) filed a proposed rate for transmission service (Rate 81) to the City of Rock Falls, Illinois (Rock Falls).[1] The rate was filed pursuant to a settlement approved by the Commission in Docket No. ER83-437-000.[2] Rock Falls presently receives full requirements service from Edison. However, under the terms of the settlement agreement, Rock Falls, as well as Edison's other full requirements customers, may obtain transmission and/or partial requirements service upon one year notice. In that event, Edison is required to file a rate for the service requested no later than 180 days prior to termination of full requirements service. In 1984, Rock Falls began to explore the possibility of purchasing its power and energy requirements from a source other than Edison, and thereafter, entered into an agreement with the Illinois Municipal Electric Agency (IMEA), a municipal corporation formed to provide a mechanism by which its members jointly plan, finance, own, and operate facilities for the generation and transmission of electric power and energy. Rock Falls intends to become a full requirements customer of IMEA on July 3, 1986. On July 1, 1985, Rock Falls issued to Edison a notice of termination and request for transmission service. Accordingly, Edison has submitted this filing which, as discussed below, mirrors a similar filing for the City of Geneva in Docket No. ER86-76-000. Edison proposes an effective date for Rate 81 of July 2, 1986. Edison therefore requests waiver of the advance filing requirements. The company has characterized its filing as an initial rate.

Notice of Edison's filing was published in the **Federal Register**,[3] with comments due on or before January 21, 1986. Timely motions to intervene were filed jointly by the Cities of Rock Falls, Batavia, Geneva, and Naperville, Illinois (Cities), the Illinois Commerce Commission (ICC), and IMEA.

The Cities request that the Commission: (1) Find Edison's proposed rate to be a change in rate rather than an initial rate and suspend the filing for one day; (2) find Edison's submittal to be deficient and order Edison to file all information required by section 35.13 of the Commission's regulations, including a cost of service study based on fully-distributed costs; (3) require Edison to place in effect and collect on a subject-to-refund basis commencing July 3, 1986, a transmission rate based on Edison's fully-distributed embedded costs; (4) summarily reject the proposed stand-by charge and Edison's alternative justification for Rate 81; and (5) set the matter for expedited hearing. In support of its requests, the Cities contend that the proposed rate is anticompetitive and constitutes an unlawful attempt by Edison to retain monopoly power in its service area. The Cities further argue that the filing is unduly discriminatory in that it is much higher than the transmission component of Edison's firm wholesale and retail rates, and therefore, will result in price squeeze. As to the proposed stand-by charge, Rock Falls states that it does not want or need standby service, and did not request it from Edison. The Cities also filed a separate motion requesting the consolidation of this docket with the proceedings in Docket No. ER86-76-000, due to the similarity of the two proposals.[4]

IMEA seeks rejection of Edison's filing, alleging that the company has not justified pricing its transmission rate on marginal costs, that it has not justified including generation capacity costs in Rate 81, and that the stand-by charge included in the proposed rate schedule is discriminatory.

The ICC requests to be made a party to the proceedings, but raises no specific issues.

On February 5, 1985, Edison filed a response to the pleadings on the Cities and IMEA. Edison contends that only Rock Falls should be permitted to intervene, as it is the only movant with an interest in this proceeding. The company denies that its filing is deficient or a change in rate. However, Edison volunteers to hold all amounts collected under Rate 81 subject to refund if the Commission decides that a lower rate should be charged. As to the motions for summary disposition, Edison first argues that the facts relied upon by Rock Falls in support of its request for summary disposition differ from those presented by Geneva, and relied upon by the Commission, in Docket No. ER86-76-000, in one significant respect: that Rock Falls has no contract with an alternative supplier. Thus, according to Edison, there is no need for summary rejection of Rate 81 in order to preserve an existing relationship with another power supplier or avert potentially anticompetitive consequences. Second, Edison argues that the motions raise disputed questions of material fact. Edison opposes the Cities' motion for consolidation, contending that while there is an overlap with in issues with regard to the theoretical basis for the calculation of rates for service to Rock Falls and Geneva, the factual circumstances are different. Finally, Edison concurs in the request that the Commission set the matter for hearing on an expedited schedule.

On January 30, 1986, IMEA filed an answer in support of the Cities' motion to consolidate the instant proceeding with Docket No. ER86-76-000.

Discussion

Under Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 285.214), the timely, unopposed motions to intervene of Rock Falls and the ICC serve to make them parties to these proceedings. Notwithstanding Edison's opposition to the interventions of Batavia, Geneva, Naperville, and IMEA, we find that good cause exists to grant their motions. We are satisfied that they have expressed interests in the outcome of this proceeding that may not be represented by any other party, and that their participation may be in the public interest. Accordingly, we shall grant their motions to intervene.

We shall grant Edison's motion for waiver of the 120-day advance filing limitation in section 35.3 of our

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[1] *See* Attachment for rate schedule designations.

[2] 29 FERC ¶ 61,084 (1984).

[3] 51 FR 1834 (1986).

[4] Edison proposes a rate of $8.27/kW for service to Rock Falls as opposed to the $8.93/kW for service to Geneva.

regulations, inasmuch as none of the intervenors objects to the request, and the timing of Edison's filing is in accordance with the terms of the settlement agreement previously approved by the Commission.

The rate proposed here is virtually identifical to the one addressed in our order of January 30, 1986, in Docket No. ER86–76–000.[5] In that order, we determined that Edison's proposed rate for transmission service to Geneva, presently a full requirements customer, constituted a change in service and a change in rate schedule for that customer. Furthermore, we stated our disagreement with Edison's characterization of its filing as a rate decrease, finding that the proposed charge for transmission service, when compared to an unbundled transmission component of its present service to Geneva, would necessarily reflect a rate increase. We declined to find Edison's filing deficient, however, in light of the affected customer's desire to effectuate the modified form of service; instead, we directed Edison to submit full cost of service data and testimony in order to proceed to hearing. For the reasons set forth in that order, we find that Edison's filing here constitutes a change in rate, and a rate increase as well. Further, given Edison's obligation to make the filing and Rock Fall's desire to implement transmission service by July 3, 1986, we shall not reject the filing as deficient. As in Docket No. ER86–76–000, we shall direct Edison to submit cost of service data and testimony prior to hearing.

In Docket No. ER86–76–000, we stated that, in the circumstances surrounding the filing, Edison's proposed transmission rate to Geneva presented a clear potential for substantial anticompetitive effects that would immediately subject Geneva to an observable and irremediable prejudice or disadvantage in the power supply market. We further found that no material issues of fact required resolution in order to reach this determination or to conclude that operation of the rate, subject to refund, would be contrary to the public interest. While we did not go so far as to foreclose Edison outright from attempting to show that a form of marginal cost pricing might be supported, we were not prepared to allow the filed rate to take effect under circumstances where the potential harm could not be remedied. Thus, we summarily rejected Edison's proposed rate and directed Edison to file a rate which excluded stand-by charges and reflected Edison's average transmission costs.

In this case, Rock Falls, like Geneva, was a signatory to the settlement which resulted in a commitment by Edison that full requirements customers could obtain transmission service from Edison so that they could satisfy their power needs through purchases from alternative power suppliers. Having considered the pleadings, the purposes of the prior settlement and the current filing, and the bases advanced by Edison to support its rates, we conclude that the proposed rate now before us raises the same concerns as those we expressed with regard to the rate filed in Docket No. ER86–76–000. We are not persuaded by Edison's attempt to distinguish the facts now before us from those in Docket No. ER86–76–000 on the basis that Rock Falls apparently has no formal purchase contract with IMEA. As we noted above, IMEA was created to provide its members with the means of satisfying their own energy requirements. Rock Falls is among the members of IMEA and has given Edison express notice of its desire to convert from full requirements service to transmission-only. Thus, there is no less of a relationship between Rock Falls and IMEA than exists between Geneva and its potential supplier, and we perceive no less of a potential for a direct irremediable prejudice or disadvantage in the power supply market. Accordingly, for the same reasons enunciated in our order entered in Docket No. ER86–76–000, we shall summarily reject Edison's proposed Rate 81 to Rock Falls and require Edison to file a rate which reflects its average embedded system transmission costs and excludes Edison's proposed stand-by component. As in the prior docket, however, we shall permit the company to adduce additional evidence in an effort to seek prospective application of its transmission pricing proposal and its proposed stand-by charge. Because Edison has not yet filed this revised rate, we must conclude that it has not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory or preferential, or otherwise unlawful. Accordingly, we shall accept Edison's revised rate as specified above to become effective on July 3, 1986, subject to refund.

We shall, further, grant the Cities' motion to consolidate the proceedings in the instant docket with those in Docket No. ER86–76–000. The rates proposed by Edison in the two dockets are developed in a similar manner and are proposed for the same type of service. The filing of the rates in both instances arises out of the same settlement agreement. Consequently, the rate submittals in the two dockets present common questions of law or fact. Furthermore, Geneva and Rock falls are represented by the same counsel and consultants. Consolidation of the two dockets at this time is particularly appropriate and will avoid unnecessary duplication of effort by all the parties and the Commission staff.

In accordance with the Commission's policy and practice established in *Arkansas Power and Light Company*, 8 FERC ¶ 61,131 (1979), we shall phase the price squeeze issue raised by the intervenors to the extent that it may continue to exist following Edison's submission of revised rates.

The Commission orders:

(A) Batavia's, Geneva's, Naperville's, and IMEA's motions to intervene are hereby granted, subject to the Commission's Rules of Practice and Procedure.

(B) Edison's request for waiver of the 120-day advance filing requirement is hereby granted.

(C) Edison's proposed rate is summarily rejected, and Edison is directed to file, within thirty (30) days of the date of this order, a rate based on its average system transmission costs and excluding a stand-by component.

(D) Edison's transmission rate, as amended by summary disposition in Ordering Paragraph (C), is accepted for filing and suspended to become effective on July 3, 1986, subject to refund.

(E) All other requests for rejection or summary disposition not specifically granted herein are denied.

(F) Pursuant to authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of Edison's rates and charges.

(G) Subdocket 000 of Docket No. ER86–230 is hereby terminated Docket No. ER86–230–001 is assigned to the evidentiary proceeding ordered herein.

(H) Docket Nos. ER86–76–001 and ER86–230–001 are hereby consolidated for purposes of hearing and decision.

(I) The administrative law judge designated to preside in Docket No. ER86–76–001 shall determine procedures, including the submission of a case-in-chief by Edison, best suited to

[5] 34 FERC ¶ 61,115.

accommodate consolidation of this docket with the pending proceeding.

(J) The Commission hereby orders initiation of price squeeze procedures and further orders that this proceeding be phased so that the price squeeze procedures begin after issuance of a Commission opinion establishing the rate which, but for consideration of price squeeze, would be just and reasonable. The presiding judge may modify this schedule for good cause. The price squeeze portion of this case shall be governed by the procedures set forth in § 2.17 of the Commission's regulations as they may be modified prior to the initiation of the price squeeze phase of this proceeding.

(K) The Secretary shall promptly publish this order in the **Federal Register.**

By the Commission. Commissioner Stalon concurred with a separate statement to be issued later.

Kenneth F. Plumb,

Secretary.

Commonwealth Edison Company, Docket No. ER86-230-000

Rate Schedule Designations

Designation	Description
(1) Original Sheet Nos. 1R, 1T and 1U to FPC Electric Tariff, Original Volume No. 1.	Rate 81
(2) 3rd Revised Sheet No. 58 to FPC Electric Tariff Original Volume No. 1.	Blank Service Contract for Rate 81
(3) 5th Revised Sheet No. 59 to FPC Electric Tariff, Original Volume No. 1.	Do.
(4) Service Agreement No. 13 to FPC Electric Tariff, Original Volume No. 1 (Supersedes Service Agreement dated October 2, 1984).	City of Rock Falls

[FR Doc. 86-4968 Filed 3-6-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RA86-2-000]

Commonwealth Oil Refining Company, Inc.; Filing of Petition for Review Under 42 U.S.C. 7194

March 3, 1986.

Take notice that Commonwealth Oil Refining Company, Inc. on February 24, 1986, filed a Petition for Review under 42 U.S. 7194(b) from an order of the Secretary of Energy (Secretary).

Copies of the petition for review have been served on the Secretary and all participants in prior proceedings before the Secretary.

Any person who participated in the prior proceedings before the Secretary may be a participant in the proceeding before the Commission without filing a motion to intervene. However, any such person wishing to be a participant must file a notice of participation on or before March 18, 1986, with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC. 20426. Any other person who was denied the opportunity to participate in the prior proceedings before the Secretary or who is aggrieved or adversely affected by the contested order, and who wishes to be a participant in the Commission proceeding, must file a motion to intervene on or before March 18, 1986, in accordance with the Commission's Rules of practice and procedure (18 CFR 385.214 and 385.1005(c)).

A notice of participation or motion to intervene filed with the Commission must also be served on the parties of record in this proceeding and on the Secretary of Energy through the Office of General Counsel, the Assistant General Counsel for Regulatory Litigation, Department of Energy, Room 6H-025, 1000 Independence Avenue, SW., Washington, DC. 20585.

Copies of the petition for review are on file with the Commission and are available for public inspection at Room 1000, 825 North Capitol Street NE., Washington, DC 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-4969 Filed 3-6-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA86-12-000]

Connecticut Natural Gas Corp.; Petition for Exemption From Incremental Pricing and for Interim Relief

Issued: February 27, 1986.

Take notice that on February 3, 1986, Connecticut Natural Gas Corporation (Connecticut) filed with the Director, Office of Pipeline and Producer Regulation, pursuant to section 206(d) of the Natural Gas Policy Act of 1978 (NGPA) a petition for interim and permanent exemptions from the Commission's incremental pricing regulations which impose a surcharge on its natural gas sales to four non-exempt industrial boiler fuel customers located in the State of Connecticut.

In support of its petition, Connecticut states that without exemption relief the incremental pricing surcharge will cause the price of its natural gas to exceed the actual cost of alternative fuel in the area and that such increased costs will likely cause its four non-exempt industrial customers to switch to less expensive alternative fuel and that such a switch will result in its high-priority customers paying a larger portion of its fixed costs. Connecticut requests interim relief from the incremental pricing regulations pending Commission action for its petition for a permanent exemption.

The procedures applicable to the conduct of this proceeding are set forth in Rules 1101-1117 (Subpart K) of the Commission's rules of practice and procedure. Any person desiring to participate in this proceeding must file a motion to intervene in accordance with Rule 1105. All motions to intervene must be filed within 15 days after publication of this notice in the **Federal Register.**

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-4970 Filed 3-6-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI80-59-003, et al.]

Exxon Corp.; Applications for Limited-Term Abandonment and Limited-Term Certificates of Public Convenience and Necessity With Pre-Granted Abandonment

March 3, 1986.

Take notice that the Applicant listed herein has filed applications pursuant to section 7 of the Natural Gas Act for authorization to sell gas in interstate commerce or to abandon service as described herein.

The circumstances presented in the applications appear to meet the criteria for consideration on an expedited basis, pursuant to § 2.77 of the Commission's rules as promulgated by Order Nos. 436 and 436-A, issued October 9, and December 12, 1985, respectively, in Docket No. RM85-1-000, all as more fully described in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protests with reference to said applications should on or before 15 days after the date of publication of this notice in the **Federal Register,** file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and

Procedure (18 CFR 385.211, 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 parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure Base
CI80-59-003, Feb. 24, 1986	Exxon Corporation, P.O. Box 2180, Houston, Texas 77252-2180	Transcontinental Gas Pipe Line Corporation, High Island 193 Area, Offshore Texas.	(1)	
CI86-214-000 Feb. 24, 1986	do	Columbia Gas of Ohio, Inc., West Cameron Block 630, Offshore Louisiana.	(2)	
CI86-216-000, Feb. 25, 1986	do	Transco Energy Marketing Company, High Island 193 Area, Offshore Texas.	(3)	

¹ Pursuant to the expedited procedures set forth in § 2.77 of the Commission's rules, Applicant requests partial abandonment authorization for its sale to Transco of NGPA section 102(d) gas for a limited-term of three years from the date of authorization. Applicant states that the gas has has been shut-in by Transco due to lack of demand and that Applicant is subject to substantially reduced takes without pay. Applicant and Transco have entered into a release agreement dated February 21, 1986, in which Transco agrees to release that portion of applicant's delivery capacity which is in excess of Transco's daily requirements and Applicant agrees that volumes released and sold under the agreement will be considered as having been purchased by Transco for take-or-pay, minimum takes, or other quantity provisions set forth in the subject contract. Applicant states that this application is being filed to provide for abandonment authority to extend beyond March 31, 1986, the date of expiration of Applicant's blanket certificate and limited-term abandonment authorization in Docket No. CI85-685-000. Applicant filed a related application for authorization to sell the subject gas in Docket No. CI86-216-000.

² Pursuant to the expedited procedures set forth in § 2.77 of the Commission's rules, Applicant requests that it be issued a limited-term certificate with pre-granted abandonment authorizing it to sell NGPA section 102(d) gas under a Gas Purchase Contract dated November 1, 1984, as amended, for a term of three years. Applicant filed realted applications for limited-term partial abandonment authorization under § 2.77 in Docket Nos. CI78-223-003 and CI78-226-003 which have already been noticed.

³ Pursuant to the expedited procedures set forth in § 2.77 of the Commission's rules, Applicant requests that it be issued a limited-term certificate with pre-granted abandonment authorizing it to sell NGPA section 102(d) gas under a Gas Purchase Contract dated December 5, 1985, for a term of three years. Applicant filed its related application for limited-term partial abandonment authorization udner § 2.77 in Docket No. CI80-59-003.

Filing Code: A—Initial service; B—Abandonment; C—Amendment to add acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 86-4974 Filed 3-6-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-685-001]

Exxon Corp; Application for Extension of Limited-Term Partial Abandonments and Blanket Limited-Term Certificate Authorization for Sales for Resale

February 28, 1986]

Take notice that on February 18, 1986, Exxon Corporation (Exxon) of P.O. Box 2180, Houston, Texas 77001, filed an application requesting the Federal Energy Regulatory Commission (Commission) to extend, until March 31, 1987, its authority to (a) abandon temporarily sales for resale of Natural Gas Act (NGA) gas for which the maximum lawful price is higher than the NGPA section 109 price and which were previously certificated by the Commission, to the extent that such gas in released by Exxon pursuant to such conditions as may be imposed by the Commission, and (b) make sales for resale in intersate commerce of NGA gas for which the maximum lawful price is higher than the NGPA section 109 price.

The extensions herein sought would (1) extend for a period of one year the authorizations granted on October 29, 1985, in Docket No. C185-685-000; (2) provide pipelines with take-or-pay relief; (3) provide lower-cost gas to consumers; and (4) provide Exxon with additional market outlets for certain higher-priced NGPA categories of gas.

Any person desiring to be heard or to make any protests with reference to said application should on or before March 17, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 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 parties to the proceeding. Any person wishing to become a party in the proceeding herein must file a petition to intervene in accordance 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.

[FR Doc. 86-4972 Filed 3-6-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI78-223-003 and CI78-226-003]

Exxon Corp.; Applications for Limited-Term Abandonment of Service

February 28, 1986.

Take notice that the Applicant listed herein has filed applications pursuant to Section 7 of the Natural Gas Act for authorization to abandon service as described herein.

The circumstances presented in the applications meet the criteria for consideration on an expedited basis, pursuant to Section 2.77 of the Commission's rules as promulgated by Order No. 436 and 436-A, issued October 9, and December 12, 1985, in Docket No. RM85-1-000, all as more fully described in the applications which are on file with the Commissin and open to public inspection.

Accordingly, any person desiring to be heard or to make any protests with reference to said applications should on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 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 parties to the proceeding. Any person wishing to become a party in any proceeding herein must file a petition to intervene in accordance with the Comission's Rules.

Kenneth F. Plumb,

Secretary.

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
CI78-223-003, Feb. 20, 1986	Exxon Corporation P.O. Box 2180, Houston, Texas 77252-2180	Trunkline Gas Company, West Cameron Block 630 Field, Offshore Lousiana.	¹	

Docket No. and date filed	Applicant	Purchaser and location	Price per 1,000 ft ³	Pressure base
CI78-226-003, Feb 20, 1986	do	Norther Natural Gas Company, West Cameron Block 630 Field, Offshore Louisiana.	[1]	

[1] Pursuant to the expedited procedures set forth in §2.77 of the Commission's rules, Applicant request partial abandonment authorization for its sale to Buyer of NGPA section 102(d) gas for a limited-term of three years from the date of authorization. Applicant states that the gas has been shut-in by Buyer due to lack of demand and indicates that Applicant is not being paid for gas not taken. Applicant and Buyer have entered into a release agreement dated November 8, 1985, in which Buyer agrees to release that portion of Applicant's delivery capacity which is in excess of Buyer's daily requirements and Applicant agrees to credit volumes released and sold under the agreement against any deficiency payments Buyer may be obligated to make under gas purchase contracts with Applicant and/or its affiliates for gas which Buyer has not taken. Applicant states that this application is being filed to provide for abandonment authority to extend beyond March 31, 1986, the date of expiration of Applicant's blanket certificate and limited-term abandonment authorization in Docket No. CI85-685-000.
Filing Code: A—Initial Service; B—Abandonment; C—Amendment to all Acreage; D—Amendment to delete acreage; E—Total Succession; F—Partial Succession.

[FR Doc. 86-4973 Filed 3-6-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket No. TA86-4-51-000, 001]

Great Lakes Gas Transmission Co.; Proposed Changes in FERC Gas Tariff Under Purchased Gas Adjustment Clause Provisions

March 3, 1986.

Take notice that Great Lakes Gas Transmission Company ("Great Lakes"), on February 24, 1986, tendered for filing Fifty-Fifth-B Revised Sheet No. 57 and Second Substitute Fifty Sixth Revised Sheet No. 57 to its FERC Gas Tariff, First Revised Volume No. 1.

Great Lakes states that the filing provides for a new pricing arrangement related to gas purchased from Great Lakes by ANR Pipeline Company ("ANR"). Under the new proposed arrangement, the monthly demand component of the gas cost component of the gas price will be reduced from the current $15.21 per Mcf (of contract quantity) per month to $12.35 per Mcf per month. The commodity component will be reduced from a rate that varied between $2.50 and $4.25 per MMBtu to a single rate of $2.09 per MMBtu. The estimated annual savings to ANR based on full contract volumes would be approximately $5 million. Prices are subject to monthly adjustment by application of an index designed to create prices competitive in the markets than ANR serves.

Great Lakes is requesting an effective date of December 19, 1985, for Fifty-Fifth-B Revised Sheet No. 57. In aid thereof, Great Lakes requests waiver of the 30-day notice requirement of the provisions of § 154.38(d)(4)(iv)(a) of the Commission's Regulations so as to permit this out-of-period PGA filing to implement the foregoing substantial reduction in purchased gas cost as soon as possible.

On January 21, 1986 Great Lakes filed Substitute Fifty-Sixth Revised Sheet No. 57 to its FERC Gas Tariff, First Revised Volume No. 1 to reflect the GRI Adjustment related to the Gas Research Institute's 1986 Research and Devlopment Program which superseded Fifty-Sixth Revised Sheet No. 57 filed by Great Lakes on December 13 1985 and was approved by the Commission on December 27, 1985. Fifty-Fifty-B Revised Sheet No. 57, was filed to implement the pricing arrangements for ANR effective December 19, 1985, requiring a further change to the GRI Tariff Sheet to be effective January 1, 1986. Accordingly Great Lakes filed Second Substitute Fifty-Sixth Revised Sheet No. 57 to be effective January 1, 1986 which reflected the appropriate PGA rates.

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 and 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.214, 385.211 (1985)). All such motions or protests should be filed on or before March 10, 1986. 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. 86-4975 Filed 3-6-86; 8:45 am]
BILLING CODE 6717-01-M

[Docket Nos. ER86-238-000 and ER86-239-000]

New England Power Co.; Order Accepting for Filing and Suspending Rates, Noting Intervention, Granting Requests for Waiver, Terminating Docket, and Establishing Hearing Procedures

Issued February 28, 1986.

Before Commissioners: Anthony G. Sousa, Acting Chairman; Charles G. Stalon, Charles A. Trabandt and C. M. Naeve.

On January 29, 1986, New England Power Company (NEP) completed the filing, in Docket No. ER86-238-000, of an interim fuel and purchased economic power adjustment clause in compliance with a waiver of the fuel clause regulations granted by the Commission in Docket No. EL86-4-000.[1] That waiver permits NEP to defer billing, through the fuel clause, replacement power costs related to the forced outage of Brayton Point Unit No. 3 to the extent that those costs may be reimbursed by insurance proceeds. NEP proposes that its revised fuel clause become effective on September 25, 1985, the first date as of which the company may be reimbursed for the costs under the terms of its insurance policy.

On January 9, 1986, NEP submitted for filing, in Docket No. ER86-239-000, a proposed modification to its fuel adjustment clause to account for fuel cost savings anticipated from the generation of test energy from units under construction, including the Millstone Nuclear Generating Station Unit No. 3 (Millstone 3), in which NEP has a twelve percent ownership interest.[2] NEP alleges that the amendment would conform to the Commission's treatment of similar costs in *Pennsylvania Power & Light Company*, Opinion No. 176, 23 FERC ¶ 61,395 (1983) (*PP&L*), and to the Commission's Uniform System of Accounts, Electric Plant Instructions, Section 3, Paragraph 18 (18 CFR Part 101). That procedure, according to NEP, requires a utility to treat the value of its share of the test energy from a unit under construction as a reduction in plant investment rather than as a reduction in the fuel costs to be flowed through to customers under the fuel clause, thus preserving the benefits of this power for future ratepayers who will ultimately bear the cost of the project.

NEP's filing states that Millstone 3 was expected to begin producing test energy on or about January 20, 1986. By its filing in Docket No. ER86-239-000, NEP seeks to calculate its fuel costs as if there were no test energy being generated and to reduce its investment cost in Millstone 3. In order to accomplish this, NEP requests a waiver

[1] 33 FERC ¶ 61,274 (1985). The Commission's order granting the waiver directed NEP to file an interim fuel clause within 30 days.

[2] *See* Attachment for rate schedule designations.

of § 35.14 of the Commission's regulations (18 CFR 35.14). The company proposes that its revised fuel clause become effective on January 20, 1986, or the actual date on which test energy commences, whichever is sooner. Accordingly, NEP requests waiver of the notice requirements.

NEP plans to value the test energy at an amount equal to its avoided cost, *i.e.*, the cost to NEP to produce the same amount of energy from its system as if it had not received any test energy. The company contends that this will result in valuing test energy at its "fair value" as required by the Uniform System of Accounts. NEP acknowledges, however, that its current wholesale customers have already paid a portion of the carrying costs of Millstone 3 in their current rates [3] and should, therefore, receive credit for a portion of the test energy generated from the unit. The company requests that the question of what portion should be passed on to customers be set for hearing. NEP further requests waiver of the Commission's accounting rules to the extent that they would require NEP to credit the cost of construction with the fair value of test energy savings flowed through to customers. Under the Uniform System of Accounts, Electric Plant Instructions, Section 3, Paragraph 18, a utility is required to credit and charge Account 107 with all revenues and expenses related to test energy generation. NEP submits that to the extent the savings of test energy are passed on to its customers on a current basis, NEP should only be required to credit Account 107 with the actual revenues received. Otherwise, NEP alleges, it would be required to credit its CWIP account with an amount greater than revenues received for test energy. This would have the effect of giving current customers a portion of the savings from test energy and, at the same time, reducing the cost of construction by the amount of the fair value of that portion of test energy.

Notices of NEP's filings were published in the **Federal Register**,[4] with comments due on or before January 27, 1986, in Docket No. ER86–239–000, and on or before February 12, 1986, in Docket No. ER86–238–000. No comments were filed in Docket No. ER86–238–000. An untimely motion to intervene was filed in Docket No. ER 86–239–000 by the Attorney General of the State of Rhode Island and the Rhode Island Division of Public Utilities and Carriers (Rhode Island). Rhode Island does not object to NEP's filing, so long as all aspects of test energy allocation are resolved in a hearing.

[3] NEP's currently effective rates, which include some construction work in progress (CWIP) associated with the plants that will generate test energy, have been collected, subject to refund, since January 1, 1984 (Docket Nos. ER83–647–000, *et al.*, 24 FERC ¶ 61,339 (1983)).

[4] 51 FR 2,753 (Docket No. ER86–239–000); 51 FR (1986) (Docket No. ER86–238–000).

Discussion

We shall grant Rhode Island's late-filed motion to intervene in Docket No. ER86–239–000. We are satisfied that Rhode Island has expressed an interest in the outcome of this proceeding that is not represented by any other party, that its participation may be in the public interest, and that, because of the early stage of this proceeding, no undue prejudice or delay should occur.

We have reviewed the revised fuel clause filed in Docket No. ER86–238–000 and have determined that it appropriately implements the waiver previously granted in Docket No. ER86–4–000. Given the purposes of the filing and the absence of any objection to the proposed effective date, we find that good cause exists to waive the notice requirements. We shall therefore accept NEP's filing in Docket No. ER86–238–000 without suspension or hearing, to become effective on September 25, 1985.

With respect to NEP's proposed treatment of test energy submitted in Docket No. ER86–239–000, we have previously accepted several similar applications. In *PP&L, supra*, we granted the company's request for waiver and approved the modifications to its fuel adjustment clauses. In that case, we found that, absent waiver of the fuel clause regulations, current ratepayers would receive the benefits of the test energy in the form of decreased fuel costs. Future ratepayers would, however, incur all the costs associated with the test energy through higher rates which result from inclusion of such costs in the CWIP account and ultimately in rate base. We concluded that, by allowing waiver of the regulations and crediting the fair value of test energy to the plant account, future ratepayers who ultimately bear the costs associated with the facility undergoing testing will receive benefits through lower rates. We determined that this ratemaking treatment would avoid problems of intergenerational inequity.

In this proceeding, NEP's wholesale customers have been paying for some, but not all, of the total carrying costs associated with the Millstone 3 through CWIP charges. Therefore, some retention of test energy savings by NEP is appropriate. Unlike *PP&L*, however, it appears that retention of all the benefits by NEP is inappropriate in light of its recovery of some CWIP-related amounts. Accordingly, we shall grant waiver of § 35.14 of the regulations, accept NEP's proposed modification to its fuel clause for filing, but set for hearing the question regarding the portion of the savings that should be passed on to the wholesale customers.[5]

Pending such hearing and a determination as to the just and reasonable apportionment of test energy savings, we shall impose a nominal suspension in order to afford refund protection, while allowing implementation of the proposed fuel clause to coincide with the period of testing for Millstone 3. Under the circumstances presented, including the lack of any adverse interventions, we find that good cause exists to waive the notice requirements and allow NEP's submittal to take effect, subject to refund, as of the initiation of testing at Millstone 3.

We shall also grant NEP's request for waiver of the Commission's accounting rules. As in *PP&L, supra*, if the utility were required to flow through to current customers savings from test energy and to reduce the cost of construction at the same time with those savings, ratepayers would unfairly benefit twice from the same cost savings. 23 FERC at 61,844.

The Commission orders:

(A) The untimely motion to intervene of Rhode Island in Docket No. ER86–239–000 is hereby granted, subject to the Commission's Rules of Practice and Procedure.

(B) NEP's requests for waiver of the notice requirements are hereby granted.

(C) NEP's submittal in Docket No. ER86–238–000 is hereby accepted for filing, to become effective without suspension or hearing on September 25, 1985.

(D) NEP's requests for waiver of section 35.14 of the Commission's regulations and the Commission's accounting rules in Docket No. ER86–239–000 are hereby granted.

(E) NEP's proposed fuel adjustment clause submitted in Docket No. ER86–239–000 is hereby accepted for filing and suspended, to become effective on the date test energy from Millstone 3 commences, subject to refund.

(F) NEP shall file a report with the Commission of the Commencement of generation of test energy from Millstone 3, within ten (10) days of such date.

[5] *See Gulf States Utilities Co.*, 32 FERC ¶ 61,231 (1985), where the Commission similarly set for hearing the question of what portion of the test energy savings should be retained where the affected customers have contributed to CWIP-related costs.

(g) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly sections 205 and 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held in Docket No. ER86-239-000 to determine the appropriate portion of fuel savings to be immediately passed on to NEP's customers in recognition of their prior contributions to CWIP.

(H) A presiding administrative law judge, to be designated by the Chief Administrative Law Judge, shall convene a conference in this proceeding to be held within approximately fifteen (15) day of the date of this order, in a hearing room of the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426. The presiding judge is authorized to establish procedural dates, including the submission of a case-in-chief by NEP, and to rule on all motions (except motions to dismiss) as provided in the Commission's Rules of Practice and Procedure.

(I) Docket Nos. ER86-238-000 and ER86-239-000 are hereby terminated. The evidentiary proceeding established herein is designated as Docket No. ER86-239-001.

(J) The Secretary shall promptly publish this order in the Federal Register.

By the Commission.

Kenneth F. Plumb,

Secretary.

The following designations are under FPC Electirc Tariff, Orginal Volume No. 1.

Docket No. ER86-238-000

(1) 34th Revised Sheet No. 2 of Schedule IIA (Supersedes 33rd Revised Sheet No. 2).

(2) Original Sheet No. 2-X of Schedule II-A.

(3) Original Sheet No. 2-Y of Schedule II-A.

(4) Second Revised Sheet No. 2-A of Schedule II-A (Supersedes First Revised Sheet No. 2-A).

Docket No. ER86-239-000

(5) 35th Revised Sheet No. 2 of Schedule II-A (Supersedes 34th Revised Sheet No. 2).

[FR Doc. 86-4976 Filed 3-6-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA86-11-000]

Phelps Dodge Corp.; Petition for Exemption From Incfemental Pricing and for Interim Relief

Mrach 3, 1986.

On January 29, 1986, petitioner Phelps Dodge Corporation (Phelps Dodge) filed with the Federal Energy Regulatory Commission a petition for adjustment under sections 206(d) and 502(c) of the Natural Gas Policy Act of 1978,[1] and §§ 385.1104 and 385.1113 of the Federal Energy Regulatory Commission's Rules of Practive and Procedure.[2]

Phelps Dodge seeks temporary adjustment relief from the Commission's incremental pricing rules with respect to non-exempt natural gas which it purchases from El Paso Natural Gas Company for use at petitioner's copper mining facility at Bisbee, Arizona, and its copper mining and smelting facility at Ajo, Arizona. Petitioner also seeks interim relief pending Commission action on its request for temporary relief. By order issued January 28, 1985, in Docket No. SA84-25-000,[3] the Director of the Office of Pipeline and Producer Regulation (Director) granted Phelps Dodge temporary relief from incremental pricing for a 12-month period beginning with the billing month of February 1985. In the instant filing Phelps Dodge seeks a 12-month extension of that relief with regard to the Bisbee and Ajo facilities.

The procedures applicable to the conduct of this adjustment proceeding are found in Subpart K of the Commission's Rules of Practice and Procedure.[4] Any person desiring to participate in this adjustment proceeding must file a motion to intervene under Subpart K within 15 days after publication of this notice in the Federal Register.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-4977 Filed 3-6-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-633-003]

Tenneco Oil Co., et al.; Application

March 3, 1986.

Take notice that on February 25, 1986, Tenneco Oil Company, Houston Oil Minerals Corporation, Tenneco Exploration, Ltd., Tenneco Exploration II, Ltd., TINCO, Ltd., and Tenneco West Inc., (hereinafter referred to collectively as Tenneco Oil), filed an application in accordane with sections 4 and 7 of the Natural Gas Act (NGA), 15 U.S.C. 717-717z, and Part 157 of the Rules of Practice and Procedure of the Federal Energy Regulatory Commission (Commission), requesting that the Commission amend its Order Permitting and Approving Limited-term Abandonments and Granting Certificates, issued on October 29, 1985, in Docket Nos. CI85-633-000, *et al.* (October 29th Order), to extend the term thereof through March 31, 1987. Absent such extension, Tenneco Oil will be without authority, as of March 31, 1986, to make self-implementing spot market sales of gas that remains subject to the NGA's certificate and abandonment requirements. The temporary extension requested herein will prevent a possible hiatus in spot market sales and will be consistent with the transitional rationale contained in Order No. 436.

Any person desiring to be heard or to make any protests with reference to said application should on or before March 18, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 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 parties to the proceeding. Any person wishing to become a party in the proceeding herein must file a petition to intervene in accordance 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.

[FR Doc. 86-4978 Filed 3-6-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI85-632-002]

Tenngasco Corp. and Tenngasco Exchange Corp.; Petition of Tenngasco Corp. and Tenngasco Exchange Corp. for Blanket Certificate of Public Convenience and Necessity and for an Order Permitting and Approving Pre-Granted Abandonment

March 3, 1986.

Take notice that on February 24, 1986, Tenngasco Corporation and Tenngasco Exchange Corporation (hereinafter referred to collectively as "Tenngasco")

[1] 15 U.S.C. 3346(d) and 3412(c) (1982).

[2] 18 CFR 385.1104 and 385.1113 (1985).

[3] 30 FERC ¶ 62,106.

[4] 18 CFR 385.1101-.1117 (1985).

pursuant to Sections 4 and 7 of the Natural Gas Act, 15 U.S.C. 717–717z (1982)(NGA) and Part 157 of the regulations of the Federal Energy Regulatory Commission (Commission), 18 CFR Part 157 (1984), applied for a one (1) year extension of the limited-term sales and abandonment authority granted in this proceeding. Tenngasco states that such an extension is in the public interest as it will allow a smooth transition into the abandonment procedures established in Order No. 436.

Any person desiring to be heard or to make any protest with reference to said application should on or before March 18, 1986, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 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 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 accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–4979 Filed 3–6–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI86–218–000]

Transco Energy Marketing Co.; Application

February 28, 1986.

Take notice that on February 25, 1986, Transco Energy Marketing Company (TEMCO), P.O. Box 1396, Houston, Texas 77251, filed in this proceeding an application, pursuant to sections 4 and 7 of the Natural Gas Act and Part 157 of the Commission's regulation, requesting a blanket certificate of public convenience and necessity to be effective or or before April 1, 1986, authorizing (1) sales for resale of certain natural gas in interstate commerce, without market restriction, by TEMCO and the producers from which TEMCO purchases such gas, (2) sales for resale of certain natural gas in interstate commerce, without market restriction, by producers through TEMCO acting as their agent, and (3) blanket pre-granted abandonment of the sales described in TEMCO's application, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

TEMCO states that the purpose of its application is to enable TEMCO to resell in the spot market natural gas which it purchases from producers who have received abandonment authorization from the Commission in separate proceedings, including those authorizations granted pursuant to the Commission expedited abandonment procedures now codified at 18 CFR 2.77, and will permit TEMCO to act as agent for such producers in the sale for resale of their gas in the spot market. TEMCO in this proceeding is requesting no abandonment of producer-pipeline commitments, nor any transportation authority, and states that any transportation necessary to effect the sales for which authorization is sought in this proceeding will be implemented pursuant to order No. 436 and the Commission's rules and regulations. TEMCO further states that since the Commission has stated that it will consider requests for abandonment of natural gas irrespective of the NGPA category of such gas, all gas subject to the Commission's NGA jurisdiction would be potentral sources, of gas under the authorizations sought in its application. TEMCO also states that to the extent that the abandonment authority granted to a producer in a separate proceeding is not a permanent release of reserves or is restricted in some other way, the sales and pregranted abandonment authorizations requested would likewise be restricted. TEMCO requests that, in any order approving its application, the Commission expressly find that with respect to TEMCO and its operations, the Commission's NGA jurisdiction is limited to the specific non-exempt activities for which TEMCO is seeking authorization.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than normal for the filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protests with reference to said application should on or before March 12, 1986, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 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 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 petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–4980 Filed 3–6–86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CI86–210–000]

TXP Operating Co.; Application

February 28, 1986.

Take notice that on February 20, 1986, TXP Operating Company (TXPO), P.O. Box 1396, Houston Texas 77251 filed an application requesting that the Commission issue an order that grants TXPO the necessary authorizations for a limited term (1) to abandon temporarily sales for resale of certain NGA-gas listed on Exhibit "A" of the application that is produced by TXPO and its joint interest owners, to the extent that such joint interest owners agree to same, which were previously certificated by the Commission, and to the extent that such gas is released by the interest pipeline purchasers, (2) to make sales for resale in interstate commerce of such NGA-gas; and (3) to abandon (pre-granted abandonment) any sale for such limited term. In that regard TXPO requests the authorizations described in said application for a limited term beginning on April 1, 1986 and ending on March 31, 1987. TXPO further requests that the Commission handle the application on an expedited basis in accordance with Order No. 436 in Docket No. RM85–1–000.

TXPO states that the authorizations requested in its application are necessary so that it can continue to make spot sales at market responsive prices from certain offshore blocks that qualify for the NGPA Section 102 ceiling price. TXPO reports that it is experiencing substantially reduced takes from those blocks without payment under its long-term contract with its purchaser(s).

Any person desiring to be heard or to make any protests with reference to said application should on or before 15 days after the date of publication of this notice in the **Federal Register**, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and

Procedure (18 CFR 385.211, 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 parties to the proceeding. Any person wishing to become a party in the proceeding herein must file a petition to intervene in accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unncessary for Applicants to appear or to be represented at the hearing.

Kenneth F. Plumb,

Secretary.

EXHIBIT "A"

[As of February 13, 1986]

Block	NGPA section	Deliverability (MCF/D)	TXPO'S share of deliverability (MCF/D)	Purchaser's takes from TXPO under long-term contract (MCF/D)
High Island A-313	102(d)	10,000	1,800	41
High Island A-446	102(d)	42,500	8,806	2,498
High Island A-447	102(d)	31,350	3,527	561
High Island A-563/564	102(d)	80,700	7,265	1,017
High Island A-582	102(d)	55,000	5,825	91
Mustang Island A-85	102(d)	46,300	21,608	98
Mustang Island A-111	102(d)	149,840	122,869	2,460
North Padre Island A-42	102(d)	45,130	33,848	1,779
Vermillion 310	102(d)	20,000	7,663	1,678

[FR Doc. 86-4981 Filed 3-6-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. ER86-317-000, et al.]

Electric Rate and Corporate Regulation Filings; York Haven Power Co., et al.

February 28, 1986.

Take notice that the following filings have been made with the Commission:

1. York Haven Power Company

[Docket No. ER86-317-000]

Take notice that the York Haven Power Company, Reading, Pennsylvania, on February 24, 1986, tendered for filing a proposed change in its rate schedule for the sale of power to its parent, Metropolitan Edison Company, from FPC licensed Project No. 1888. This change in rates is proposed to be effective for deliveries of power and energy on or after May 1, 1986, the proposed changes would increase revenues from jurisdictional sales and service by $3,478 based on the 12-month period ending April 30, 1986.

York Haven states that under the affected rate schedule, all of the power and energy from Project No. 1888 is sold to Metropolitan Edison on a rate based upon York Haven's cost and expenses in generating and transmitting such power and energy. Under its agreement with Metropolitan Edison, York Haven is entitled to the same return on net investment as was most recently allowed Metropolitan Edison by the Pennsylvania Public Utility Commission. That Commission on October 25, 1985 allowed a rate of return to Metropolitan Edison of 11.03 percent. This filing is submitted to reflect that rate of return. York Haven indicates that its current rate of return is 10.97 percent under its rate schedule. Copies of the filing have been mailed to Metropolitan Edison and the Pennsylvania Public Utility Commission.

Comment date: March 13, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Southern California Edison Company

[Docket No. ER86-316-000]

Take notice that, on February 24, 1986, Southern California Edison Company ("Edison") tendered for filing two agreements entitled (1) "Edison-Vernon Palo Verde Nuclear Generating Station ("PVNGS") Firm Transmission Service Agreement" as a rate schedule and (2) "Supplemental Agreement to the Integrated Operations Agrement ("IOA") Between the City of Vernon and the Southern California Edison Company, Dated August 25, 1982, for the Integration in the Palo Verde Nuclear Generating Station" as a supplement to the IOA.

The Supplemental Agreement to the IOA provides for certain specific details relating to the integration of Vernon's PVNGS entitelment as required by the IOA.

Under the terms and conditions of the Firm Transmission Service Agreement, Edison will make available to Vernon transmission service for its entitlements in the capacity and energy from PVNGS to the Point of Delivery at Vernon, California.

The Agreements are proposed to become effective when executed by the Parties and accepted for filing by the Commission and as such, Edison requests, to the extent necessary, waiver of notice requirements.

Copies of this filing were served upon the Public Utilities Commission of the State of California and the City of Vernon, California.

Comment date: March 13, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Ohio Edison Company

[Docket No. ER86-318-000]

Take notice that Ohio Edison Company (Ohio Edison) on February 24, 1986 tendered for filing proposed changes in its FERC Electric Tariff Schedule No. 150 and Supplements 1 through 5 applicable to sales and service to American Muncipal Power-Ohio (AMP-Ohio). The proposed changes would increase revenues for jurisdictional sales and service as the result of an increase in the transmission charge by $768,389.96 but would decrease those revenues by $19,671.57 based on the twelve months ending December 31, 1986 due to changes in the charges for Regulation Capacity and Regulation Energy.

Ohio Edison proposed an effective date of January 2, 1986 for the decrease in charges for Regulation Capacity and Regulation Energy and October 1, 1985 for the transmission charge increase.

Ohio Edison states that the reason for the proposed decrease for Regulation Capacity and Regulation Energy charges is to conform them with the retail General Service Large Customers tariffs as approved by The Public Utilities Commission of Ohio in the manner provided for and as described in Schedule 150 and its Supplements.

For the increase in transmission charge, Ohio Edison states that it is to reflect the mutual agreement of the parties and to provide a recovery of increased costs of service and to increase the rate of return of its facilities to an acceptable level.

Comment date: March 13, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Consumers Power Company

[Docket No. ER86-320-000]

Take notice that Consumers Power Company ("Consumers Power") on February 24, 1986 tendered for filing Consumers' Supplemental Agreement No. 4 to the Coordianated Operating Agreement with the City of Lansing, Michigan dated as of January 1, 1986.

Supplemental Agreement No. 4 increases the rate charged for transmission service to 30¢/kW/week and 6¢/kW/day. Supplemental Agreement No. 4 also increases the rate for transfers of Emergency Energy to 2.5 mills/kWh.

The extent and use of transmission service and transfers of Energency Energy among the parties for the next twelve months is not known at the present time, as such transactions will only be scheduled from time to time as load and capacity conditions on either system dictate. Accordingly, it is not possible to estimate the transactions for such period.

Consumers Power states that copies of the filing were served on the City of Lansing, Michigan and on the Michigan Public Service Commission.

Comment date. March 13, 1986, in accordance with Standard Paragraph E at the end of this document.

5. The Connecticut Light and Power Company

[Docket No. ER86-315-000]

Take notice that on February 24, 1986, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule pertaining to a Purchase Agreement with Respect to Various Gas Turbine Units between CL&P and Vermont Electric Generation and Transmission Cooperative (VEG&T) dated as of November 1, 1985.

CL&P states that the Purchase Agreement provides for a sale to VEG&T of capacity and energy from four CL&P gas turbine units (the Units), together with related transmission service, starting on November 1, 1985 and terminating thirty days after either party gives written notice of termination. The percentage of capacity and related energy will be determined on a monthly basis by mutual agreement prior to each transaction.

CL&P requests that the Commission permit the rate schedule filed to become effective on November 1, 1985. CL&P states that the capacity charge rate for the proposed service is a cost-of-service rate based upon the fixed costs of the units. The monthly transmission charge rate is equal to one-twelfth of the annual average costs of transmission service on the transmission systems of CL&P and its affiliated Northeast Utilities companies at the time that the Purchase Agreement was executed and is determined in accordance with Section 13.9 of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee. The monthly Transmission Charge is determined by the product of (i) the appropriate monthly transmission charge rate ($/kW/month) and (ii) the number of kilowatts of winter capability which VEG&T's is entitled to receive during such month. The Energy Variable, and Additional Maintenance Charges are based on VEG&T's portion of the applicable fuel expenses and hours of operation related to the Units and no special cost-of-service studies were made to derive these charges.

CL&P states that the services to be provided under the Purchase Agreement are the same as services provided by CL&P and WMECO pursuant to purchase agreements with City of Chicopee Municipal Lighting Plant (FERC Rate Schedule Nos. CL&P 331, WMECO 267), and with the Village of Hyde Park Electric Department (FERC Rate Schedule No. WMECO 215).

CL&P states that a copy of the rate schedules have been mailed or delivered to CL&P, Hartford, Connecticut and to VEG&T, Johnson, Vermont.

CL&P further states that the filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: March 13, 1986, in accordance with Standard paragraph E at the end of this notice.

6. The Connecticut Light and Power Company

[Docket No. ER86-319-000]

Take notice that on February 24, 1986, The Connecticut Light and Power Company (CL&P) tendered for filing a proposed rate schedule pertaining to a Purchase Agreement with respect to Various Gas Turbine Units between CL&P and Newport Electric Corporation (Newport) dated as of December 1, 1985.

CL&P states that the Purchase Agreement provides for a sale to Newport of a specified percentage of capacity and energy from CL&P's South Meadow Units Nos. 11, 12, 13, and 14 (the Units) during the period December 1, 1985 through October 31, 1991.

CL&P requests that the Commission permit the rate schedule filed to become effective on December 1, 1985.

CL&P states that the capacity charge rate for the first eleven months for the proposed service is a negotiated rate, based on the market price for this capacity, and less than the cost-of-service rate. The capacity charge for the remainder of the term is determined on a cost-of-service basis at the time that the Purchase Agreement was executed. The monthly transmission charge is equal to one-twelfth of the annual average cost of transmission service on the transmission systems of CL&P and its affiliated Northeast Utilities companies at the time that the Purchase Agreement was executed and is determined in accordance with Section 13.9 of the New England Power Pool (NEPOOL) Agreement and the uniform rules adopted by the NEPOOL Executive Committee. The monthly Transmission Charge is determined by the product of (i) the appropriate monthly transmission charge rate ($/kW-month) and (ii) the number of kilowatts of winter capability which Newport is entitled to receive during such month. The Energy Charge, Variable, and Additional Maintenance Charges are based on Newport's portion of the applicable fuel expenses and hours of operation related to the Units and no special cost-of-service studies were made to derive these charges.

CL&P states that the services to be provided under the Purchase Agreement are the same as services by CL&P and WMECO pursuant to purchase agreements with City of Chicopee Municipal Lighting Plant (FERC Rate Schedule Nos. CL&P 331, WMECO 267), and with the Village of Hyde Park Electric Department (FERC Rate Schedule No. WMECO 215).

CL&P states that a copy of the rate schedules have been mailed or delivered to CL&P, Hartford, Connecticut and to Newport, Middletown, RI.

CL&P further states that the filing is in accordance with Part 35 of the Commission's Regulations.

Comment date: March 13, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protests 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. 86-4984 Filed 3-6-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9134-000, 8627-000]

D & D Stauffer, Inc., City of Ithaca; Availability of Environmental Assessment and Finding of No Significant Impact

February 27, 1986.

In accordance with the National Environmental Policy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for major and minor licenses (or exemptions) listed below and has assessed the environmental impacts of the proposed developments.

EXEMPTIONS

Project No.	Project name	State	Water body	Nearest town	Applicant
9134-000	Dry Creek Hydroelectric	ID	Dry and Wet Creeks	Howe	D&D Stauffer, Inc
8627-000	Van Natta	NY	Six Mile Creek	Ithaca	City of Ithaca

Environmental assessments (EA's) were prepared for the above proposed projects. Based on independent analyses of the above actions as set forth in the EA's, the Commission's staff concludes that these projects would not have significant effects on the quality of the human environment. Therefore, environmental impact statements for these projects will not be prepared.

Copies of the EA's are available for review in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-4971 Filed 3-6-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 4349-003, 2548-002]

Long Lake Energy Corp., and Georgia-Pacific Corp.; Availability of Environmental Assessment and Finding of No Significant Impact

February 27, 1986.

In accordance with the National Environmental Policy Act of 1969, the Office of Hydropower Licensing, Federal Energy Regulatory Commission (Commission), has reviewed the applications for major and minor licenses (or exemptions) listed below and has assessed the environmental impacts of the proposed developments.

Project No.	Project name	State	Water body	Nearest town	Applicant
4349-003	Moose River	NY	Moose River	Lyonsdale	Long Lake Energy Corp.
2548-002	Lyons Falls	NY	Black River	Lyonsdale & West Turin	Georgia-Pacific Corp.

Environmental assessments (EA's) were prepared for the above proposed projects. Based on independent analyses of the above actions as set forth in the EA's, the Commission's staff concludes that these projects would not have significant effects on the quality of the human environment. Therefore, environmental impact statements for these projects will not be prepared.

Copies of the EA's are available for review in the Commission's Division of Public Information, Room 1000, 825 North Capitol Street, NE., Washington, DC 20426.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-4982 Filed 3-6-86; 8:45 am]

BILLING CODE 6717-01-M

[Project No. 9648-000, et al.]

Hydroelectric Applications; Westinghouse Electric Corp., et al.

Take notice that the following hydroelectric applications have been filed with the Federal Energy Regulatory Commission and are available for public inspection:

1a. Type of Application: Minor License.

b. Project No.: 9648-000.

c. Date Filed: November 22, 1985.

d. Applicant: Westinghouse Electric Corporation and the Town of Springfield, Vermont.

e. Name of Project: Fellows Dam.

f. Location: On the Black River in Windsor County, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r).

h. Contact Person: John F. Andreas, Plant Manager, Westinghouse Electric Corporation, 160 Tapley Street, Springfield, MA 01104, (413) 734-3197

i. Comment Date: May 5, 1986.

j. Description of Project: The Applicants propose to refurbish the existing project which consists of: (1) The 10-foot-high and 200-foot-long concrete Fellows Dam with a crest elevation of 435 feet mean sea level owned by the town of Springfield; (2) an impoundment with a surface area of 21 acres; (3) an intake structure; (4) a 4-foot by 8-foot reinforced concrete open flume, 30-feet long; (5) a powerhouse with a turbine generator unit with an installed capacity of 150 kW; (6) a 4.16-kV and 100-foot-long transmission line; and (7) other appurtenances. Applicants estimate an average annual generation of 700,000 kWh.

k. Purpose of Project: Project energy would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

2a. Type of Application: Preliminary Permit.

b. Project No.: 9810-000.

c. Date Filed: December 30, 1985.

d. Applicant: CON-REL Corporation.

e. Name of Project: Gunpowder No. 1.

f. Location: Gunpowder Creek, Caldwell County, North Carolina.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)-825(r)

h. Contact Person: Mr. Charles B. Mierek, CON-REL Corporation, Route 2, Box 302A, One Clifton-Glendale Road, Spartanburg, SC 29302, (803) 579-4405.

i. Comment Date: May 1, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing concrete dam structure, 50 feet high and 271 feet long; (2) an existing reservoir with a surface area of approximately 150 acres and a gross storage capacity of about 1,200 acre-feet at normal pool elevation; (3) an existing penstock, 42" in diameter and approximately 300 feet long; (4) a proposed powerhouse containing two generating units with a total capacity of 500 kW; (5) a proposed, 1000-foot-long transmission line to interconnect with the existing power grid; and (6) appurtenant facilities. The estimated average annual generation is 1.6 GWh.

k. Purpose of Project: The project power would be sold to Duke Power Company or to Carolina Power and Light Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C & D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued.

does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $45,000.

3a. Type of Application: Preliminary Permit.

b. Project No.: 9637–000.

c. Date Filed: November 22, 1985.

d. Applicant: Johnson/Iowa Associates.

e. Name of Project: Coralville Dam.

f. Location: Iowa River, Johnson County, Iowa.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Jordan Walker, Great Western Power & Light Inc., 484 East 300 North, Manti, UT 84642, (801) 835–0202

i. Comment Date: May 1, 1986.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers Coralville Dam and would consist of: (1) A proposed penstock, approximately 450 feet long and 6 feet in diameter; (2) a proposed powerhouse located on the east bank of the river below the dam, and containing a single generating unit with a capacity of 6.3 MW; (3) a proposed 250-foot-long, 12.5 kV transmission line to interconnect with the existing power grid; and (4) appurtenant facilities. The estimated average annual generation is 27.5 GWh.

k. Purpose of Project: The Applicant intends to sell the project power to a local utility or power company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C & D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time it would prepare studies of the hydraulic, construction, economic, environmental, historic and recreational aspects of the project. Depending on the outcome of the studies, Applicant would prepare an application for an FERC license. Applicant estimates the cost of the studies under the permit would be $35,000.

4a. Type of Application: Preliminary Permit.

b. Project No: 9820–000.

c. Date Filed: December 31, 1985.

d. Applicant: Cross Flow Hydroelectric, Inc.

e. Name of Project: Cabazon Hydroelectric Power Project.

f. Location: On domestic water supply conduit of Cabazon County Water District in Riverside County, California.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Neal F. Dunlevy, P.E., Stetson-Dale, Architects & Engineers, 185 Genesee Street, Utica, NY 13501.

i. Comment Date: May 5, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing upper intake structure collecting water from springs located at elevation 3,500 feet above msl; (2) 1 15-inch-diameter, 17,000-foot-long water supply pipeline; (3) an upper powerhouse containing a single 550 kW generating unit; (4) an existing lower intake structure at located elevation 2,580 feet msl; (5) an 18-inch-diameter, 10,000-foot-long water supply pipeline; (6) a lower powerhouse containing a single 375 kW generating unit; and (7) a 14,000-foot-long 13.2-kV transmission line interconnecting the project to Southern California Edison Company's (SEC) existing transmission line. The estimated 1.89 GWh generated annually would be sold to SCE.

k. Purpose of Project: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $9,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

5a. Type of Applicant: Preliminary Permit.

b. Project No: 9478–000.

c. Date Filed: September 25, 1985.

d. Application: Pan Pacific Hydro, Inc.

e. Name of Project: Weber Flat #2.

f. Location On Elk Gulch, a tributary to Stuart Fork, near Weaverville, within the Trinity National Forest, in Trinity County, California (In Sections 16, 21, and 28 of T35N, R9W, M.D.M.&B.).

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. James B. Tompkins, Pan Pacific Hydro, Inc., 215 Main Street, P.O. Box 2142, Weaverville, CA 96093, (916) 623–2914.

i. Comment Date: April 25, 1986.

j. Description of Project: The proposed run-of-the-river project would consist of: (1) An intake structure located at a natural waterfall on Elk Gulch at elevation 4,200 feet msl; (2) a 16-inch-diameter, 12,000-foot-long penstock; (3) a powerhouse containing a single turbine-generator unit with a rated capacity of 400 kW and operating under a head of 900 feet; and (4) a 12-kV, 3,200-foot-long transmission line interconnecting the project to an existing Pacific Gas and Electric Company (PG&E) line. The project's estimated average annual generation of 1.5 GWh would be sold to PG&E.

A preliminary permit, if issued, does not authorize construction. Applicant seeks to investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for development. Applicant estimates that the cost of the studies under permit would be $20,000.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

6a. Type of Application: Preliminary Permit.

b. Project No.: 9737–000.

c. Date Filed: December 27, 1985.

d. Applicant: Taft Hydropower Inc.

e. Name of Project: Owego Hydropower Project.

f. Location: On Owego Creek near Owego, Tioga County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person:

Mr. Lawerence R. Taft, 10315 Caughdenoy Rd., Central Square, NY 13036, (315) 437–2547.

Mr. Neal F. Dunlevy, Stetson Dale, Engineering PC, 185 Genesse St., Utica, NY 13501, (315) 797–5800.

i. Comment Date: April 25, 1986.

j. Description of Project: The proposed project would consist of: (1) Rebuilding an existing breached concrete dam approximatly 120 feet long and 10 feet high; (2) an existing 6-acre reservoir with 30 acre-feet of storage at an elevation of 810 msl (breakaway wooden flashboards 3 feet high would be added to the dam); (3) an existing intake channel approximately 200 feet long; (4) rebuilding an existing concrete powerhouse approximately 60 feet by 15 feet which would house a 500 kW bulb turbine-generator; (5) an existing 60 foot wide by 2,000 foot long tailrace channel which would require cleaning and dredging; (6) a new 13.2 kV transmission line approximately 300 feet long; and (7)

appurtenant facilities. The Applicant estimates that the average annual energy generation would be 2.2 GWh. The project energy would be sold to New York State Electric and Gas Company. The dam is owned by Cindy Rudin, Owego, New York.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

l. *Proposed Scope of Studies under Permit*—A preliminary permit, is issued does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $42,000.

7a. Type of Application: Preliminary Permit.

b. Project No.: 9677–000.

c. Date Filed: December 9, 1985.

d. Applicant: Georgia J. Ure.

e. Name of Project: Locustville Pond.

f. Location: Brushy Brook, Washington County, Rhode Island.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Georgia J. Ure, Prospect Square, P.O. Box 123, Wyoming, R.I. 02898, (401) 539–2160.

i. Comment Date: April 28, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing earthfill dam 18 feet high and 320 feet long; (2) an existing impoundment of 128 acre-feet at a normal maximum surface elevation of 95 feet mean sea level; (3) an existing sluiceway 124 feet long and 8 feet wide, (4) a proposed turbine/generator of 50 kW capacity in a proposed weatherproof enclosure; (5) a proposed 45-foot-long 480 volt transmission line; and (6) appurtenant facilities.

The estimated annual energy production is 186,000 kWh at a net hydraulic head of 16 feet. Project power would be sold to Narragansett Electric Company. The existing facilities are owned by the applicant.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

l. *Proposed Scope under Permit:*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $7,000.

8a. Type of Application: Minor License.

b. Project No.: 7352–002.

c. Date Filed: July 2, 1985.

d. Applicant: Sven Elov Ericson.

e. Name of Project: Kings Falls.

f. Location: On the Deer River in Denmark Township, Lewis County, New York.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Sven Elov Ericson, 6 Harrison Rd. Willowdale, Ontario, M2L IV2, Canada, 416–361–4668.

i. Comment Date: April 25, 1986.

j. Description of Project: The project would consist of the following proposed facilities: (1) A concrete weir or dam, 100 feet long and a maximum of 6 feet high (The crest elevation of the dam will be 891 feet msl, with the addition of 3-foot-high flashboards, the effective crest will be 894 feet msl); (2) a 2.5-acre reservoir with a gross storage capacity of 10 acre-feet; (3) an intake channel 450 feet long and 12 feet wide; (4) a 7-foot-diameter penstock 120 feet long; (5) a concrete masonry powerhouse 40 feet in lenght and 20 feet in width, that will house a turbine-generator unit with a total installed capacity of 1,500 kW; (6) a 70-foot-long and 20-foot-wide tailrace channel; (7) a 4,000-foot-long 23-kV transmission line that will connect to the existing line of Niagara Mohawk Power Corporation; (8) a 12-foot-wide 3,000-foot-long access road; and (9) appurtenant facilities. The Applicant estimates that the average annual energy production would be approximately 4.0 GWh.

k. Purpose of Project: The Applicant anticipates that project energy will be sold to the Niagara Mohawk Power Corporation.

l. This notice consists of the following standard paragraphs: A3, A9, B, C and D1.

9a. Type of Application: Preliminary Permit.

b. Project No.: 9538–000.

c. Date Filed: October 9, 1985.

d. Applicant: Trafalgar Power, Inc.

e. Name of Project: Mill Point.

f. Location: Schoharie Creek, Montgomery County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Arthur H. Steckler, Trafalgar Power, Inc., Smith and Canal Streets, Franklin, NH 03035, (606) 934–4202 or (514) 273–8891.

i. Comment Date: April 25, 1986.

j. Description of Project: The proposed project would consist of (1) An existing stone masonry dam 360 feet long, 20 feet high, with a breached section 140 feet long to be repaired; (2) an existing intake structure and power canal, 4,100 feet long, to be repaired; (3) a proposed reservoir of surface area equal to 113 acres and storage volume of 712 acre-feet at a normal maximum surface elevation of 410 feet mean sea level; (4) an existing powerhouse to be repaired and to contain two proposed turbine/generators with a total capacity of 3.58 MW; (5) an existing tailrace to be cleared; (6) a proposed 13.2 kV, 2,100-foot-long transmission line; and (7) appurtenant facilities. The estimated annual energy production is 10,146,000 KWh. The net hydraulic head is 36 feet. Project power would be sold to Niagara Mohawk Power Corporation. The existing facilities are owned by George Pilicki and Stanley Korona Jr.

k. This notice consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

l. *Proposed Scope of Studies under Permit.*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $75,000.

10 a. Type of Application: Preliminary Permit.

b. Project No.: 9731–000.

c. Date Filed: December 26, 1985.

d. Applicant: Summit Hydropower.

e. Name of Project: Willimantic No. 3.

f. Location: On the Willimantic River in Windham County, Connecticut.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Duncan Broatch, Summit Hydropower, P.O. Box 122, Putnam, CT 06260, (203) 928–2002.

i. Comment Date: April 28, 1986.

j. Description of Project: The proposed run-of-river project would consist of: (1) An existing 10-foot-high and 100-foot-long granite block gravity dam; (2) a small impoundment with a surface

elevation of 227 feet mean sea level; (3) a new intake structure and powerhouse at the north side of the dam with a 390-kW turbine-generator unit; (4) a short tailrace; (5) a new 400-foot-long transmission line; and (6) other appurtenances. Applicant estimates an average annual generation of 1,755,000 kWh. Existing facilities and water rights are owned by the Boland Oil Company and the Northeast Utilities Company.

k. Purpose of Project: Project energy would be sold to the Northeast Utilities Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 3 years during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates the cost of the studies under the permit would be $10,000.

a. Type of Application: Minor License.

b. Project No.: 9650–000.

c. Date Filed: November 22, 1985.

d. Applicant: Westinghouse Electric Corporation and Factory Falls Associates.

e. Name of Project: Gilman Dam.

f. Location: On the Black River in Windsor County, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: John F. Andreas, Plant Manager, Westinghouse Electric Corporation, 160 Tapley Street, Springfield, MA 01104, (413) 734–3197.

i. Comment Date: April 28, 1986.

j. Description of Project: The Applicants propose to refurbish the existing project which consists of: (1) The 7-foot-high and 190-foot-long concrete Gilman Dam with a crest elevation of 421 feet mean sea level owned by Factor Falls Associates; (2) a small impoundment with a surface area of 1 acre; (3) an intake structure; (4) a 4-foot-diameter and 175-foot-long steel penstock; (5) a powerhouse with one 125-kV unit; (6) a 4.16-kW and 50-foot-long transmission line; and (7) other appurtenances. Applicants estimate an average annual generation of 660,000 kWh.

k. Purpose of Project: Project energy would be sold to local utility.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

12a. Type of Application: Minor License.

b. Project No: 9649–000.

c. Date Filed: November 22, 1985.

d. Applicant: Westinghouse Electric Corporation and Lovejoy Tool Company, Inc.

e. Name of Project: Lovejoy Dam.

f. Location: On the Black River in Windsor County, Vermont.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: John F. Andreas, Plant Manager, Westinghouse Electric Corporation, 160 Tapley Street, Springfield, MA 01104, (413) 734–3197.

i. Comment Date: April 28, 1986.

j. Description of Project: The Applicants propose to refurbish the existing project that consists of: (1) The 15-foot-high and 150-foot-long concrete Lovejoy Dam owned by the Lovejoy Tool Company, Inc.; (2) one-foot-high flashboards; (3) an impoundment with a surface area of 3.6 acres; (4) an intake structure; (5) a 4-foot by 8-foot reinforced concrete penstock, 5 feet long; (6) a powerhouse with 2 turbine-generator units with a total installed capacity of 150 kW; (7) a 4.16-kV and 100-foot-long transmission line; and (8) other appurtenances. Applicants estimate an average annual generation of 500,000 kWh.

k. Purpose of Project: Project energy would be sold to a local utility.

l. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

13a. Type of Application: Preliminary Permit.

b. Project No: 9692–000.

c. Date Filed: December 18, 1985.

d. Applicant: Pacific Sunshine Power, Inc.

e. Name of Project: White River—Mud Mountain Dam.

f. Location: On the White River at the U.S. Army Corps of Engineers Mud Mountain Dam in Sec. 9, 16, 17, 8, 7, 6 T.19N. R.7E. and Sec. 1 T.19N. R.6E. near Enumclaw and Buckley in King and Pierce Counties, Washington.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Michael D. Kuntz, 4100 Seafirst Fifth Avenue Plaza, 800 5th Avenue, Seattle, WA 98104, (206) 622–1818.

i. Comment Date: April 25, 1986.

j. Description of Project: The proposed project would involve constructing a powerplant at the existing Mud Mountain Dam. The project would consist of: (1) Three existing 2,000-foot-long, 8½-foot-diameter penstocks; (2) a proposed powerhouse containing one generating unit with a rated capacity of 11,000 kW; and (3) a 2½-mile-long transmission line. Applicant estimates the average annual energy production to be of 37 GWh.

A preliminary permit does not authorize construction. Applicant seeks issuance of a preliminary permit for a term of 36 months during which it would conduct engineering and environmental feasibility studies and prepare an FERC license application at a cost of $250,000. No new roads would be constructed or drilling conducted during the feasibility study.

k. Purpose of Project: The proposed power is to be sold to the local power company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C and D2.

14a. Type of Application: Major License.

b. Project No.: 8296–001.

c. Date Filed: June 7, 1985.

d. Applicant: Malacha Power Project, Inc.

e. Name of Project: Muck Valley Project.

f. Location: On Pit River, in Lassen County, California; partially within U.S Bureau of Land Management lands.

g. Filed Pursuant to: Federal Power Act 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Thomas J. Vestal, President, Malacha Power Project, Inc., P.O. Box 250, Fall River Mills, CA 96028, (916) 336–5528.

i. Comment Date: April 25, 1986.

j. Description of Project: The proposed project would consist of: (1) A 4.5-foot-high, 300-foot-long diversion dam located at elevation 4,084 feet m.s.l. in the NE¼ of the SW¼ of Section 27, Township 37 North, Range 7 East of the Mount Diablo Meridian; (2) a 144-foot-long, 29.5-foot-high intake structure; (3) a 12-foot-diameter, 22,200-foot-long lined diversion tunnel; (4) a 19-foot-diameter, 4,000-foot-long low-pressure conduit; (5) an 8-foot-diameter, 8,000-foot-long penstock; (6) a powerhouse located in the SW¼of the NW¼ of Section 11, Township 36 North, Range 6 East, containing a single 29,900 kW generating unit operating under a head of 664.5 feet; (7) a substation, adjacent to the powerhouse, containing a 12.47/115-kV power transformer; (8) a 16-mile-long, 115-kV transmission line interconnecting the project to the Pacific Gas and Electric Company's (PG&E) Pit No. 1 Powerhouse; (9) a 1-mile-long access road; and (10) appurtenant facilities.

The estimated 97 GWh generated annually by the project would be sold to PG&E. The estimated cost of

constructing the project is $36,306,480. No recreational facilities are proposed. The license application was filed pursuant to a 24-month preliminary permit issued to the Applicant on March 12, 1985, 30 FERC ¶ 62,271 (1985).

k. This notice also consists of the following standard paragraphs: A3, A9, B, C, and D1.

15a. Type of Application: Minor License.

b. Project No.: 8391–001.

c. Date Filed: November 27, 1985.

d. Applicant: Prodek, Inc.

e. Name of Project: Silver Jack Dam.

f. Location: On the Cimarron River, near Montrose, in Gunnison County, Colorado.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Flake H. Wells, III, Prodek, Inc., 3314 E. 51st St., Suite B, Tulsa, OK 74135, (918) 749–7749.

i. Comment Date: April 14, 1986.

j. Description of Project: The proposed run-of-the-river project would utilize the existing U.S. Bureau of Reclamation's Silver Jack Dam and would consist of: (1) A 24-inch-diameter, 160-foot-long penstock which would be connected to the existing 38-inch-diameter outlet pipe located inside the outlet tunnel, upstream from two existing high-pressure gates; (2) a 16 feet by 17 feet concrete powerhouse located adjacent to the existing low level outlet stilling basin, containing a single Francis turbine-generator unit with a rated capacity of 215 kW, and producing an estimated average annual generation of 1.19 GWh; (3) a 30-inch-diameter, 60-foot-long concrete pipe tailrace discharging water to the Cimarron River via the existing stilling basin; and, (4) a 7.2–kV, 190-foot-long underground transmission line interconnecting the project to an existing Delta-Montrose Electric Association, Inc. line. Applicant estimates project construction cost at $325,000 and intends to sell project power to the Colordo-Ute Electric Association, Inc.

The proposed project would utilize reservoir releases as ordered by the USBR and the Bostwick Park Water Conservancy District.

k. This notice also consists of the following standard paragraphs: A3, A9, B, C and D1.

16a. Type of Application: Preliminary Permit.

b. Project No.: 9711–000.

c. Date Filed: December 23, 1985.

d. Applicant: Inghams Corporation.

e. Name of Project: Inghams Dam.

f. Location: East Canada Creek in Herkimer and Fulton Counties, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. C. William Carter, Inghams Corporation, 420 Lexington Avenue, Suite 440, New York, NY 10170, (212) 986–0440.

i. Comment Date: April 17, 1986.

j. Description of Project: The Applicant proposes to develop the presently unutilized capacity at the Inghams Dam owned by the Niagara Mohawk Power Corporation for the existing unlicensed East Canada Creek Project No. 2648. The proposed project would consist of Option #1 or Option #2.

Option #1 would consist of: (1) A concrete gravity dam consisting of: (a) a 125-foot-high, 400-foot-long section, and (b) a 28-foot-high, 205-foot-long section; (2) a reservoir with a surface area of 135 acres, a storage capacity of 3,500 acre-feet, and a water surface elevation of 661.8 feet m.s.l. with; (3) 4.5-foot-high wood flashboards; (4) a new concrete intake structure; (5) a new 12-foot-diameter steel penstock 520 feet long; (6) a new 30-foot-diameter steel surge tank; (7) a new powerhouse containing one generating unit with a capacity of 9,600 kW; (8) a new 80-foot-wide, 700-foot-long tailrace; (9) a new transmission line, 400 feet long; (10) a new 80-foot-long bridge; and (11) appurtenant facilities.

Option #2 would consist of the same as Option #1 except that: (1) the penstock would be 1,000 feet long; (2) the tailrace length would be reduced to 150 feet; and (3) a new 800-foot-long access road.

The Applicant estimates the average annual generation would be 10,000,000 kWh. The existing dam is owned by Niagara Mohawk Power Corporation.

k. Purpose of Project: Project power would be sold to Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard Paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $160,000.

17a. Type of Application: Preliminary Permit.

b. Project No.: 9747–000.

c. Date Filed: December 27, 1985.

d. Applicant: Taft Hydropower, Inc.

e. Name of Project: Spruce Creek Camp Power Project.

f. Location: On Spruce Creek near Salisbury, Herkimer County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Lawrence R. Taft P.E., 10315 Caughdenoy Rd., Central Square, NY 13036, (315) 437–2547.
Mr. Neal F. Dunlevy, P.E., Stetson Dale Engineering PC, 185 Genesee St., Utica, NY 13501, (315) 797–5800.

i. Comment Date: April 14, 1986.

j. Description of Project: The proposed would consist of: (1) Reconstruction of an existing timber crib dam with concrete and stone-masonry abutments approximately 85 feet long; (2) a proposed one-acre reservoir with four acre-feet of storage at an elevation of 1,084 MSL; (3) reconstruction of the existing concrete power flume (10 feet wide and 15 feet long) containing a proposed submerged 125-kW generator; (4) an existing tailrace which would require dredging; (5) a proposed 13.2-kV transmission line 1,500 feet long; and (6) appurtenant facilities. The Applicant estimates that the average annual energy generation would be 600 MWh. The project energy would be sold to the Niagara Mohawk Power Company. The dam owner is Robert Geffken, Melville, New York.

k. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

l. Proposed Scope under this Permit: A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $7,000.

18a. Type of Application: Preliminary Permit.

b. Project No.: 9770–000.

c. Date Filed: December 30, 1985.

d. Applicant: Trafalgar Power, Inc.

e. Name of Project: Upper Stottville.

f. Location: On the Claverack Creek in Columbia County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Arthur H. Steckler, Trafalgar Power, Inc., Smith and Canal Street, Franklin, NH 03035, (603) 934–4202.

i. Comment Date: April 14, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing 16-foot-high and 140-foot-long concrete dam with a spillway crest elevation of 82 feet msl; (2) an existing reservoir of negligible size and storage capacity at elevation 82 feet msl; (3) a new gated intake structure and flume approximately 18 feet long; (4) a proposed powerhouse to contain one turbine/generator for an installed capacity of 250 kW; (5) a proposed tailrace; (6) a new 4.8-kV transmission line approximately 100 feet long; and (7) appurtenant facilities. The estimated average annual energy produced by the project would be 1.1 million kWh operating under a hydraulic head of 12 feet. The existing facilities are owned by John Fiorillo and East Coast Pulp Sales, Inc.

k. Purpose of Project: Project power will be sold to the Niagara Mohawk, Power Corporation.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $36,000.

19a. Type of Application: Preliminary Permit.

b. Project No.: 9778–000.

c. Date Filed: December 30, 1985.

d. Applicant: Trafalgar Power, Inc.

e. Name of Project: North Hoosick.

f. Location: On the Walloomsac River in Rennselaer County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Arthur H. Steckler, Trafalgar Power, Inc., Smith and Canal Street, Franklin, NH 03035, (603) 934–4202.

i. Comment Date: April 14, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing 12-foot-high and 160-foot-long concrete dam with a spillway crest elevation of 422 feet msl; (2) an existing 5.8-acre reservoir with a storage capacity of 35 acre-feet at 422 feet msl; (3) a proposed 20-foot-wide and 15-foot-long gated intake structure; (4) a proposed powerhouse to contain one turbine/generator with an installed capacity of 350 kW; (5) a new 13.8-kV transmission line approximately 1700 feet long; (6) appurtenant facilities. The estimated average annual energy produced by the project would be 1.5 million kWh operating under a hydraulic head of 16.5 feet. The existing facilities are owned by the Flomatic Corporation.

k. Purpose of Project: Project power will be sold to the Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. *Proposed Scope of Studies under Permit*—A preliminary permit, if issued, does not authorize construction. The term of the proposed preliminary permit is 36 months. The work proposed under the preliminary permit would include economic analysis, preparation of preliminary engineering plans, and a study of environmental impacts. Based on results of these studies Applicant would decide whether to proceed with more detailed studies, and the preparation of an application for license to construct and operate the project. Applicant estimates that the cost of the work to be performed under the preliminary permit would be $48,000.

a. Type of Application: Preliminary Permit.

b. Project No.: 9816–000.

c. Date Filed: December 31, 1985.

d. Applicant: Cash Flow Systems.

e. Name of Project: Port Henry.

f. Location: Mill Brook in Essex County, New York.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Mr. Lawrence R. Taft, Cash Flow Systems, P.O. Box 685, Troy, NY 12181, (518) 272–3431.

i. Comment Date: April 14, 1986.

j. Description of Project: The proposed project would consist of: (1) An existing 30-foot-high, 100-foot-long concrete gravity dam; (2) a reservoir with a surface area of 12.8 acres, a storage capacity of 130-acre-feet, and a normal water surface elevation of 475 feet m.s.l.; (3) a new concrete intake structure; (4) a new 46-inch-diameter, 5,000-foot-long steel penstock; (5) a new concrete powerhouse containing one generating unit with a capacity of of 1,200 kW; (6) a new 8-foot-wide, 20-foot-long earth tailrace; (7) a new transmission line, 200 feet long; and (8) appurtenant facilities. The Applicant estimates the average annual generation would be 5,000,000 kWh. The existing dam is owned by Niagara Mohawk Power Corporation.

k. Purpose of Project: Project power would be sold to Niagara Mohawk Power Corporation.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, and D2.

m. Proposed Scope of Studies under Permit: A preliminary permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $40,000.

a. Type of Application: Preliminary Permit.

b. Project No.: 9843–000.

c. Date Filed: December 30, 1985.

d. Applicant: Bexar-Medina-Atascosa Counties Water Control and Improvement District No. 1 and Prodek, Inc.

e. Name of Project: Medina Dam Water Power Project.

f. Location: On the Medina River in Medina and Bandera Counties, Texas.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. §§ 791(a)–825(r).

h. Contact Person: Mr. Flake H. Wells, III, Vice President, Prodek, Inc., 3314 E. 51st Street, Suite B, Tulsa, OK 74135, (918) 749–7749.

i. Comment Date: April 28, 1986.

j. Description of Project: The proposed project would consist of: (1) the existing Medina Dam approximately 1,580 feet long and 164 feet high; (2) an existing 5,573-acre reservoir having a storage capacity of 254,000 acre-feet at an elevation of 1,072 feet (Medina Dam Datum); (3) an existing spillway 880 feet long; (4) three existing steel pipe irrigation conduits 60 inches in diameter with lift type gates; (5) a new penstock approximately 220 feet long and 54 inches in diameter leading to; (6) a new powerhouse containing six turbine/generator units having a total installed capacity of 1500 kW; (7) a new 12.47-kV transmission line approximately 500 feet long; and (8) appurtenant facilities. The Applicant estimates that the average annual energy would be 4,500,000 kWh. The Applicant proposes to sell all project energy to the Lower Colorado River Authority.

k. Proposed Scope of Studies under Permit: A preliminary permit, if issued,

does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 36 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would range from $60,000 to $90,000.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, & D2.

22a. Type of Application: Preliminary Permit.

b. Project No: 3493–007.

c. Date Filed: August 16, 1984.

d. Applicant: The Town of Summersville.

e. Name of Project: Summersville.

f. Location: At the U.S. Army Corps of Engineers' Summersville Dam, Gauley River in Nicholas County, West Virginia.

g. Filed Pursuant to: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. Contact Person: Carroll T. Lay, 717 Main Street, Summersville, West Virginia 26651.

i. Comment Date: April 25, 1986.

j. Description of Project: The proposed project would utilize the existing U.S. Army Corps of Engineers' Summersville Dam and Lake and would consist of: (1) 3 new 11-foot-diameter and 200-foot-long steel penstocks connected to the existing outlet works; (2) a new powerhouse with 3 turbine-generator units with a total installed capacity of 70,000 kW; (3) a new 138-kV and 8.5-mile-long transmission line; and (4) other appurtenances. Applicant estimates an average annual generation of 188,000,000 kWh.

k. Purpose of Project: Project energy would be sold to the Monogahela Power Company.

l. This notice also consists of the following standard paragraphs: A5, A7, A9, B, C, D2.

m. Proposed Scope of Studies under Permit: A prelimianry permit, if issued, does not authorize construction. Applicant seeks issuance of a preliminary permit for a period of 24 months during which time Applicant would investigate project design alternatives, financial feasibility, environmental effects of project construction and operation, and project power potential. Depending upon the outcome of the studies, the Applicant would decide whether to proceed with an application for FERC license. Applicant estimates that the cost of the studies under permit would be $150,000.

A3. Development Application—Any qualified development applicant desiring to file a competing application must submit to the Commission, on or before the specified comment date for the particular application, a competing development application, or a notice of intent to file such an application. Submission of timely notice of intent allows an interested person to file the competing development application no later than 120 days after the specified comment date for the particular application. Applications for preliminary permit will not be accepted in response to this notice.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. In accordance with the Commission's regulations, any competing development applications or notices of intent to file competing development applications, must be filed in response to and in compliance with the public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

A5. Preliminary Permit—Anyone desiring to file a competing application for preliminary permit for a proposed project must submit the competing application itself, or a notice of intent to file such an application, to the Commission on or before the specified comment date for the particular application (see 18 CFR 4.36 (1985)). Submission of a timely notice of intent allows an interested person to file the competing preliminary permit application no later than 30 days after the specified comment date for the particular application.

A competing preliminary permit application must conform with 18 CFR 4.30(b)(1) and (9) and 4.36.

A7. Preliminary Permit—Any qualified development applicant desiring to file a competing development application must submit to the Commission, on or before the specified comment date for the particular application, either a competing development application or a notice of intent to file such an application. Submission of a timely notice of intent to file a development application allows an interested person to file the competing application no later tha 120 days after the specified comment date for the particular application.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A8. Preliminary Permit—Public notice of the filing of the initial preliminary permit application, which has already been given, established the due date for filing competing preliminary permit and development applications or notices of intent. Any competing preliminary permit or development application, or notice of intent to file a competing preliminary permit or development application, must be filed in response to and in compliance with the public notice of the initial preliminary permit application. No competing applications or notices of intent to file competing applications may be filed in response to this notice.

A competing license application must conform with 18 CFR 4.30(b) (1) and (9) and 4.36.

A9. Notice of intent—A notice of intent must specify the exact name, business address, and telephone number of the prospective applicant, include an unequivocal statement of intent to submit, if such an application may be filed, either (1) a preliminary permit application or (2) a development application (specify which type of application), and be served on the applicant(s) named in this public notice.

B. *Comments, Protests, or Motions to Intervene*—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of the Rules of Practice and Procedure, 18 C.F.R. §§ 385.210, 385.211, 385.214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to inervene must be received on or before the specified date for the particular application.

C. *Filing and Service of Responsive Documents*—Any filings must bear in all capital letters the title "Comments", "Notice of Intent To File Competing Application", "Competing Application," "Protest" or "Motion To Intervene", as applicable and the Project Number of the particular application to which the filing is in response. Any of the above named documents must be filed by providing the original and the number of copies required by the Commission's regulations to: Keneneth F. Plumb, Secretary, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426. An additional copy must be sent to: Mr. Fred E. Springer, Director, Division of Project Management, Federal Energy Regulatory Commission, Room 203–RB,

at the above address. A copy of any notice of intent, competing application or motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D1. *Agency Comments*—Federal, State, and local agencies that receive this notice through direct mailing from the Commission are requested to provide comments pursuant to the Federal Power Act, the Fish and Wildlife Coordination Act, the Endangered Species Act, the National Historic Preservation Act, the Historical and Archeological Preservation Act, the National Environmental Policy Act, Pub. L No. 88–29, and other applicable statutes. No formal requests for comments will be made.

Comments should be confined to substantive issues relevant to the issuance of a license. A copy of the application may be obtained directly from the Applicant. If an agency does not file comments with the Commission within the time set for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D2. *Agency Comments*—Federal, State, and local agencies are invited to file comments on the described application. (A copy of the application may be obtained by agencies directly from the Applicant.) If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3a. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 408 of the Energy Security Act of 1980, to file within 60 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or to otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide any comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 60 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

D3b. *Agency Comments*—The U.S. Fish and Wildlife Service and the State Fish and Game agency(ies) are requested, for the purposes set forth in Section 30 of the Federdal Power Act, to file within 45 days from the date of issuance of this notice appropriate terms and conditions to protect any fish and wildlife resources or otherwise carry out the provisions of the Fish and Wildlife Coordination Act. General comments concerning the project and its resources are requested; however, specific terms and conditions to be included as a condition of exemption must be clearly identified in the agency letter. If an agency does not file terms and conditions within this time period, that agency will be presumed to have none. Other Federal, State, and local agencies are requested to provide comments they may have in accordance with their duties and responsibilities. No other formal requests for comments will be made. Comments should be confined to substantive issues relevant to the granting of an exemption. If an agency does not file comments within 45 days from the date of issuance of this notice, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Dated: March 4, 1986.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86–4985 Filed 3–6–86; 8:45 am]

BILLING CODE 6717–01–M

Natural Gas Companies; Texas American Bank/Fort Worth, N.A., Trustee of the Myron A. Smith Estate, Acct. 4312, (Myron A. Smith), et al.; Applications for "Small Producer" Certificates [1]

February 28, 1986.

Take notice that each of the applicants listed herein has filed an Application pursuant to section 7(c) of the Natural Gas Act and § 157.40 of the Regulations thereunder for a "small producer" certifcate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make protest with reference to said applications should on or before March 17, 1986, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 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 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 accordance with the Commission's Rules.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No	Date filed	Applicant
CS72-156	[1] 2-13-86	Texas American Bank/Fort Worth, N.A., Trustee of the Myron A. Smith Estate Acct. 4312, (Myron A. Smith), P.O. Box 2605, Fort Worth, TX 76113.
CS79-425	[2] 1-27-86	William H. Martin, as Trustee of the Dialtha Martin Revocable Trust (Dialtha Martin), 1804 First National Bank Building, Midland, TX 79701.
CS86-29-000	2-3-86	Bill J. Mullins, dba Cardinal Oil Company, P.O. Box 6184, Lubbock, TX 79413.
CS86-33-000	2-3-86	Enex Oil and Gas Income Program I, Series 7, One Kingwood Place, Suite 205, Kingwood, TX 77339.
CS86-34-000	2-10-86	McKenzie Management, Inc., 7318 South Yale, Tulsa, OK 74136.
CS86-35-000	2-10-86	Gila/Hansen, 711 Polk Street, Suite 721, Houston, TX 77002.
CS86-36-000	2-10-86	Ronnie H. Westbrook, 2809 Haynes, Midland, TX 79705.

[1] Letter dated February 10, 1986, reflecting change in name of certificate holder.

[2] By letter dated January 24, 1986, as supplemented by letter dated January 31, 1986, Applicant requests that the small producer certificate issued to Dialtha Martin be redesignated under the name of William H. Martin as Trustee of the Dialtha Martin Revocable Trust.

[FR Doc. 86–4983 Filed 3–6–86; 8:45 am]

BILLING CODE 6717–01–M

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Office of Energy Research

DOE/NSF Nuclear Science Advisory Committee; Open Meeting

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given of the following meeting:

Name: DOE/NSF Nuclear Science Advisory Committee.

Date and Time: March 27, 1986 from 9:00 a.m. to 6:00 p.m.; March 28, 1986 from 9:00 a.m. to 12:00 noon.

Place: Department of Energy, 1000 Independence Avenue SW., Room 1E-245, Washington, DC 20585.

Contact: John R. Erskine, Division of Nuclear Physics, U.S. Department of Energy, Washington, DC 20545, (301) 353-3613.

Purpose of the Committee

To advise the Department of Energy and the National Science Foundation on the scientific priorties within the field of basic nuclear science research.

Tentative Agenda

March 27

- Briefings and discussions of FY 1986 and FY 1987 budgets for nuclear physics research and programmatic trends.
- Review status and activities of existing subcommittees, and discuss formation of new subcommittees.
- Brief presentations of proposals for upgrades or construction of new facilities at Brookhaven National Laboratory, University of Illinois, Lawrence Berkeley Laboratory, Los Alamos National Laboratory (physics presentation only), Massachusetts Institute of Technology, and Oak Ridge National Laboratory.
- Public comment.

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- Complete presentation of facility proposals, if necessary.
- Discussion of procedure for full review of the facility proposals.
- Public comment.

Public Participation

The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact John Erskine at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provisions will be made to include the presentation on the agenda. The Chairperson of the Committee is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcripts

Available for public review and copying at the Freedom of Information Public Reading Room, 1E-190, Forrestal Building, 1000 Independence Avenue SW., Washington, DC, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC on March 4, 1986.

J. Robert Franklin,

Deputy Advisory Committee Management Officer.

[FR Doc. 86-5069 Filed 3-6-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[ER-FRL-2980-2]

Environmental Impact Statements; Availability Comments

Availability of EPA comments prepared February 17, 1986 through February 21, 1986 pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 383-5075/76. An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated February 7, 1986 (51 FR 4804).

Draft EIS's

ERP No. D-BLM-J01006-CO, Rating EO2, James Creek Coal Preference Right Lease Application, Development and Leasing, CO. Summary: EPA identified significant environmental impacts related to water quality, wetlands and riparian areas, fisheries, and ground water, including potential violation of water quality standards, arising from the proposed coal mining activities.

ERP No. D-BLM-J70005-WY, Rating EC2, Lander Resource Area, Resource Mgmt. Plan, WY. Summary EPA is concerned that protection and improvement of air and water related values be more clearly described, and recommended several corrective actions. These include a better description of objectives consistent with water quality standards (WQS); further development of mineral activity constraints for riparian-wetland areas and WQS; more definitive standards for reparian-wetland restoration and improvement; requirements for quantifying and reporting sulfur dioxide emissions from oil and gas well flaring; and inclusion of a more specific comprehensive resource monitoring strategy.

ERP No. D-BPA-L04500-00, Rating EC2, Direct Service Industry Options on Reducing Load Fluctuations and Revenue Uncertainty, WA. Summary: EPA recommends that all the environmental tradeoffs among the options and the implementation steps which would lead to a selected option be concisely described in the final EIS. Additionally, EPA is concerned that all beneficial and adverse economic impacts of the proposed rate revisions be fully evaluated in the final EIS.

ERP No. D-COE-C36059-00, Rating EC2, Port Jervis Ice Related Flood Control Plan, Upper Delaware River Basin, NJ, NY, and PA. Summary: EPA is concerned that the proposed project may cause adverse impacts to the aquatic ecosystems and water quality. Accordingly, EPA requests that the mitigation plan be provided to EPA for review and comment prior to issuance of the final EIS. An agreed upon mitigation and compensation plan should then be incorporated into the final EIS.

ERP No. D-COE-E36157-TN, Rating LO, Mill Creek Basin Flood Damage Reduction Plan, Mill and Sevenmile Creeks Dry Dam Construction and Channel Widening, TN. Summary: EPA has reviewed the draft EIS and from the information provided has no objections to the project.

ERP No. D-MMS-K02003-CA, Rating EC2, San Miguel Project, Northern Santa Maria Basin Area Study, Lease OCS-P 0409, Outer Continental Shelf (OCS) Development Plan, Approval and Permits, CA. Summary: EPA is concerned that adequate mitigation measures to offset adverse air quality impacts, and impacts associated with dredge or fill activities, be adopted. EPA also requests more information on the predicted effects of discharges upon marine environment.

ERP No. DS-SFW-A86084-00, Rating EO1, Migratory Bird Hunting in the US, Use of Lead Shotgun Pellets, Regulations, US. Summary: EPA recommends that Alternative V, a four-year phase out of lead shot in migratory waterfowl flyways, be selected as the Preferred Alternative. The Preferred Alternative selected by the US Fish and Wildlife Service prohibits the use of lead shot only in areas where lead poisoning has been identified as a threat to waterfowl or Bald Eagles, but does not adequately protect these biological resources, and offers no economic advantage over Alternative V. The final supplement EIS should also address more completely the impact of the proposed action on Peregrine Falcons and the economic impact of new developments in non-toxic shot.

ERP No. D-UPS-C81011-NY, Rating LO, Manhattan General Mail Facility Development, NY. Summary: EPA anticipates that no significant environmental impacts would result from implementation of this project. However, EPA requests that additional

information on air quality impacts be provided in the final EIS.

Final EIS's

ERP No. FA–COE–K36014–CA, Upper Santa Ana River Main Stem and Santiago Creek Flood Control Project, Mentone Dam Upstream Flood Storage Alternative, CA. Summary: The final EIS included analysis which adequately addessed EPA's prior concerns. EPA has no objections to the project.

Amended Notice

The following review was completed during the week of January 20, 1986 through January 24, 1986 and should have appeared in the **Federal Register** Notice published on February 7, 1986.

ERP No. DS–FHW–F40207–MI, Rating LO, MI–59 Reconstruction, Mound Rd. to I–94, New One-Pair and Boulevard Alternate Alignment, Right-of-Way Acquisition, 404 Permit, MI. Summary: EPA's review concluded that air quality, noise, water quality, and wetland impacts were adequately addressed. EPA has no objection to the project.

Dated: March 4, 1986.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR Doc. 86–5021 Filed 3–6–86; 8:45 am]

BILLING CODE 6560–50–M

[ER–FRL–2980]

Environmental Impact Statements; Weekly Receipts

Responsible Agency: Office of Federal Activities, General Information (202) 382–5073 or (202) 382–5075.

Availability of Environmental Impact Statements filed February 24, 1986 Through February 28, 1986 Pursuant to 40 CFR 1506.9.

EIS No. 860067, Draft, AFS, MT, ND, SD, Custer National Forest, Noxious Weed Treatment Program, Due: April 21, 1986, Contact: Susan Zike (406) 657–6361.

EIS No. 860068, DSuppl, COE, MN, Upper Mississippi River Lower Pool 5 Channel Maintenance and Weaver Bottoms Rehabilitation Plan, Dredged Material Maintenance, Wabasha County, Due: April 21, 1986, Contact: Robert Whiting (612) 725–5934.

EIS No. 860069, Final, COE, FL, Occidental Wetlands Phosphate Mining Operations, Dredge and Fill Permit, Hamilton County, Due: April 7, 1986, Contact: Dan Malanchuk (904) 791–1689.

EIS No. 860070, Final, FHW, MN, Hennepin Avenue/CSAH 52, Bridge Replacement, North 2nd Street to Main Street Southeast, Mississippi River, Hennepin County, Due: April 7, 1986, Contact: Steven Bahler (612) 725–7001.

EIS No. 860071, Draft, COE, NY, Cazenovia Creek Flood Damage Reduction Plan, Erie County, Due: April 21, 1986, Contact: Tod Smith (716) 876–5454.

EIS No. 860072, Draft, FHW, MN, MN Forest Highway-11 Construction, St. Louis CSAH–10 and St. Louis CR–565 in Hoyt Lakes to TH–61 in Silver Bay, Lake and St. Louis Cos., Due: April 21, 1986, Contact: Stan Graczyk (612) 349–5246.

EIS No. 860073, Draft, FHW, CA, I–5/Santa Ana Freeway Widening and Interchange Reconstruction, I–405 to CA–55, Orange County, Due: May 9, 1986, Contact: C. Glenn Clinton (916) 551–1310.

EIS No. 860074, Final, Adoption, COE, TN, MS, Tuscumbia River Flood Control Plan, Alcorn and Prentiss Cos., MS and McNairy Co., TN, Due: April 7, 1986, Contact: Ken Bright (901) 521–3852.

EIS No. 860075, Final, FWS, CA, Coachelle Valley Fringe-Toed Lizard Habitat Conservation Plan, Adoption/Implementation and Section 10(A) Permit, Riverside County, Due: April 7, 1986, Contact: Merle Richmond (503) 231–6131.

EIS No. 860076, Draft, COE, NJ, Manasquan Reservoir System, Oak Glen Reservoir Construction, Timber Swamp Lake and Manasquan River, Monmouth County, Due: April 21, 1986, Contact: Jerry Pasquale (215) 597–6840.

EIS No. 860077, Draft, BLM, CA, California Desert Conservation Area Plan, 1985 Amendments, Approval or Disapproval, Due: June 5, 1986, Contact: Bob Barnay (916) 978–4722.

EIS No. 860078, DSuppl, BLM, OR, Western Oregon Competing Vegetation Managment Program, Impacts of Herbicides on Human Health, Due: April 30, 1986, Contact: Gregg Simmons (503) 231–6272.

EIS No. 860079, Final, FHW, MD, MD–26 Improvement, Eldersburg to Randallstown, Carroll and Baltimore Cos., Due: April 7, 1986, Contact: Edward Terry (301) 962–4010.

EIS No. 860080, Report, COE, MO, Harry S. Truman Dam and Reservoir Operations, Future Direction of Hydropower, Benton County, Contact: Robert Amrine (816) 374–3245.

Dated: March 4, 1986.

David G. Davis,

Acting Director, Office of Federal Activities.

[FR 86–5022 Filed 3–6–86; 8:45 am]

BILLING CODE 6560–50–M

[SAB–FRL–2980–7]

Science Advisory Board; Meeting

Notice is hereby given in accordance with Pub. L. 92–463 of a change in the date of the Environmental Health Committee meeting of the Science Advisory Board (SAB) to be held March 25, 1986. Publication of the original agenda appeared in the **Federal Register** on Monday, February 24, 1986, page 6467. The amended notice is to inform the public that the one-day meeting of the Metals Subcommittee of the Environmental Health Committee of the Science Advisory Board will be held on March 25, 1986. For further information, contact Dr. Daniel Byrd, Executive Secretary, Science Advisory Board (202) 382–2552.

Dated: February 27, 1986.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 86–5015 Filed 3–6–86; 8:45 am]

BILLING CODE 6560–50–M

[OPTS–59213, FRL–2979–1]

Monohydric Alcohol Ester of Tall Oil Fatty Acids, Oxidized Certain Chemical Test Marketing Exemption Application; Werner G. Smith, Inc., et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA may upon application exempt any person from the premanufacturing notification requirements of section 5 (a) or (b) of the Toxic Substances Control Act (TSCA) to permit the person to manufacture or process a chemical for test marketing purposes under section 5(h)(1) of TSCA. Requirements for test marketing exemption (TME) applications, which must either be approved or denied within 45 days of receipt, are discussed in EPA's final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722. This notice, issued under section 5(h)(6) of TSCA, announces receipt of one application for an exemption, provides a summary, and requests comments on the appropriateness of granting the exemption.

DATE: Written comments by: March 24, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS–59213]" and the specific TME number should be sent to: Document Control Officer (TS–790), Confidential Data Branch, Information Management Division, Office of Toxic Substances,

Environmental Protection Agency, Rm. E-201, 401 M Street, SW, Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW, Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the TME received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

T 86-29

Close of Review Period. April 6, 1986.
Manufacturer. Werner G. Smith, Inc.
Chemical. (G) Monohydric alcohol ester of tall oil fatty acids, oxidized.
Use Production. (G) Confidential. Prod. range: 135,000 kg/yr.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: a total of 3 workers.
Environmental Release/Disposal. Disposal by public water treatment.

Dated: March 1, 1986.

Denise Devoe,

Acting Director, Information Management Division.

[FR Doc. 86-4903 Filed 3-6-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-59755, FRL-2979-2]

Certain Chemicals Premanufacture Notices; NL Industries, Inc.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences. Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). In the **Federal Register** of November 11, 1984, (49 FR 46066) (40 CFR 723.250), EPA published a rule which granted a limited exemption from certain PMN requirements for certain types of polymers. PMNs for such polymers are reviewed by EPA within 21 days of receipt. This notice announces receipt of three such PMNs and provides a summary of each.

DATES: Close of Review Period:

Y 86-83—March 13, 1986;
Y 86-84 and 86-85—March 17, 1986.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW., Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission by the manufacturer on the exemptions received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

Y 86-83

Manufacturer. NL Industries, Inc.
Chemical. (G) Alkyd copolymer.
Use/Production. (G) A copolymer resin to be used in an open, non-dispersive manner. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 86-84

Manufacturer. Confidential.
Chemical. (G) Acrylic modified alkyd.
Use-Production. (G) Resin in coatings. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. No data submitted.
Environmental Release/Disposal. No data submitted.

Y 86-85

Manufacturer. Sicpa Industries of Virginia, Inc.
Chemical. (G) Alkyd resin.
Use/Production. (S) Site-limited and commercial manufacture of printing inks. Prod. range: Confidential.
Toxicity Data. No data submitted.
Exposure. Manufacture and processing: a total of 5 workers, up to 6 hrs/da, up to 220 da/yr.
Environmental Release/Disposal. 0.01 to 1 kg/batch released to land. Disposal in accordance with government regulations.

Dated: February 28, 1986.

Denise Devoe,

Acting Director, Information Management Division.

[FR Doc. 86-4904 Filed 3-6-86; 8:45 am]

BILLING CODE 6560-50-M

[OPTS-51613; FRL-2979-4]

Certain Chemicals Premanufacture Notices; Reichhold Chemicals, Inc., et al.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 5(a)(1) of the Toxic Substances Control Act (TSCA) requires any person who intends to manufacture or import a new chemical substance to submit a premanufacture notice (PMN) to EPA at least 90 days before manufacture or import commences Statutory requirements for section 5(a)(1) premanufacture notices are discussed in EPA statements of the final rule published in the **Federal Register** of May 13, 1983 (48 FR 21722). This notice announces receipt of thirty PMNs and provides a summary of each.

DATES: Close of Review Period:

P 86-562, 86-563, 86-564, 86-565, and 86-566—May 21, 1986.
P 86-567, 86-568, 86-569, and 86-570—May 24, 1986.
P 86-571, and 86-572—April 21, 1986.
P 86-573, 86-574, 86-575 and 85-576—May 25, 1986.
P 86-577, 86-578, 86-579, 86-580, 86-581, 86-582, 86-583, 86-584, 86-585 and 86-586—May 26, 1986.
P 86-587, 86-588, 86-589, 86-590 and 86-591—May 27, 1986.

Written comments by:

P 86-562, 86-563, 86-564, 86-565 and 86-566—April 21, 1986.
P 86-567, 86-568, 86-569 and 86-570—April 24, 1986.
P 86-571 and 86-572—March 22, 1986.
P 86-573, 86-574, 86-575 and 86-576—April 25, 1986.
P 86-577, 86-578, 86-579, 86-580, 86-581, 86-582, 86-583, 86-584, 86-585 and 86-586—April 26, 1986.
P 86-587, 86-588, 86-589, 86-590 and 86-591—April 27, 1986.

ADDRESS: Written comments, identified by the document control number "[OPTS-51613]" and the specific PMN number should be sent to: Document Control Officer (TS-790), Confidential Data Branch, Information Management Division, Office of Toxic Substances, Environmental Protection Agency, Rm. E-201, 401 M Street, SW, Washington, DC 20460, (202) 382-3532.

FOR FURTHER INFORMATION CONTACT: Wendy Cleland-Hamnett, Premanufacture Notice Management Branch, Chemical Control Division (TS-794), Office of Toxic Substances, Environmental Protection Agency, Rm. E-611, 401 M Street, SW, Washington, DC 20460, (202) 382-3725.

SUPPLEMENTARY INFORMATION: The following notice contains information extracted from the non-confidential version of the submission provided by the manufacturer on the PMNs received by EPA. The complete non-confidential document is available in the Public Reading Room E-107 at the above address between 8:00 a.m. and 4:00 p.m., Monday through Friday, excluding legal holidays.

P 86-562

Manufacturer. Confidential.

Chemical. (G) Perfluoroalkyl epoxide.

Use-Production. (S) Chemical intermediate. Prod. range: Confidential.

Toxicity Data. Acute oral: >5 g/kg; Acute dermal: >2 g/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant.

Exposure. Manufacture: dermal, a total of 16 workers.

Environmental Release/Disposal. Release to water.

P 86-563

Manufacturer. Reichhold Chemicals, Inc.

Chemical. (G) Hydrocarbon and Bisphenol—A modified rosin maleic adduct.

Use-Production. (S) Industrial printing ink. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 5 workers, up to 8 hrs/da, up to 91 da/yr.

Environmental Release/Disposal. 66 kg/batch released to air with 500 gm/day released to land. Disposal by sanitary landfill and mechanical filter system.

P 86-564

Manufacturer. Mazer Chemicals, Inc.

Chemical. (G) Modified fatty acids, esters.

Use-Production. (G) Metal working fluid componnt. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-565

Manufacturer. Confidential.

Chemical. (G) Urethane-modified polyester-acrylic copolymer.

Use-Production. (S) Site-limited and industrial resin used in automotive paint. Prod. range: 70,000-210,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: dermal and inhalation, a total of 6 workers, up to 0.5 hr/da, up to 250 da/yr.

Environmental Release/Disposal. 0.2 to 180 kg/batch released. Disposal by landfill.

P 86-566

Manufacturer. Ethyl Corporation.

Chemical. (S) 1-decanamine, N-decyl-N-methyl-N-oxide.

Use/Production. (S) Commercial and consumer ingredient in hair conditioners, fabric conditional hard-surface cleaning and as brake fluid corrosion inhibitor. Prod. range: Confidential.

Toxicity Data. Acute oral: 894 mg/kg; Acute dermal: >2.0 gm/kg; Irritation: Skin—Irritant, Eye—Irritant; Ames test: Negative.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-567

Importer. American Hoechst Corporation.

Chemical. (G) Peri acid phenetidide alkylanilide

Use/Import. (S) Industrial coloration of plastic. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86-568

Manufacturer. Confidential.

Chemical. (S) Methoxyacetyl chloride.

Use/Production. (S) Chemical intermediate. Prod. range: 200 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: a total of 5 workers, up to 0.1 hr/da, up to 4 da/yr.

Environmental Release/Disposal. No release. Less than 4 kg/batch incinerated.

P 86-569

Manufacturer. Eastman Kodak Company.

Chemical. (S) N-[3-(dibutylamino)-1,3-propadienylidene]-N-butyl-1-butanaminium chloride.

Use/Production. (G) Chemical intermediate. Prod. range: 30-40 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and use: dermal and ocular.

Environmental Release/Disposal. No release.

P 86-570

Manufacturer. Eastman Kodak Company.

Chemical. (S) N-[3-(dibutylamino)-1,3-propadienylidene]-N-butyl-1-butanaminium hexapluorophosphate.

Use/Production. (G) Highly controlled non-dispersive use. Prod. range: 30-40 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 2 workers, up to 0.5 hr/da, up to 6 da/yr.

Environmental Release/Disposal. No release. Less than 5 kg/batch disposed by biological treatment system with less than 1 kg/batch incinerated.

P 86-571

Manufacturer. Confidential.

Chemical. (G) Alkenes, reaction products with 2,5-furandione.

Use/Production. (S) Site-limited and industrial chemical intermediate. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 27 workers, up to 8 hrs/da, up to 15 da/yr.

Environmental Release/Disposal. 40 kg/batch released to water with 1.0 kg/batch to land. Disposal by publicly owned treatment works (POTW) and incineration.

P 86-572

Manufacturer. Confidential.

Chemical. (G) Alkenes, reaction products with 2,5-furandione and substituted alkyl amine.

Use/Production. (G) Surface active agent. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 36 workers, up to 8 hrs/da, up to 15 da/yr.

Environmental Release/Disposal. 40 kg/batch released to water with 1.0 kg/batch to land. Disposal by POTW and incineration.

P 86-573

Importer. Confidential.

Chemical. (G) 4,4'-bis[4-anilino-6-substituted-1,3,5-triazin-2-ylamino]substituted stilbene.

Use/Import. (S) Industrial and consumer fluorescent brightener for use in detergents. Import range: Confidential.

Toxicity Data. Acute oral: >5,000 mg/kg; Acute dermal: >2,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Non-irritant; Biodegradability test: Not biodegradable; Ames test: Negative; Skin sensitization: Non-sensitizing; LC_{50} 96 hr (Rainbow trout): 351 mg/l; LC_{50} 48

hr (Daphnia magna): 210 mg/1; Hypersensitivity: Negative.

Exposure. Processing: dermal and inhalation, a total of 2 persons/shift, 1 hr/shift.

Environmental Release/Disposal. Release to water. Disposal by POTW or a private disposal system.

P 86-574

Importer. Confidential.

Chemical. (G) Substituted furanone.

Use/Import. (G) Highly dispersive use. Import range: Confidential.

Toxicity Data. Acute oral: 3,340 mg/kg; Irritation: Skin—Slight, Eye—Irritant; Skin sensitization: Negative; Phototoxicity test: Not phototoxic; Photoallergenicity test: Not photoallergenic; Maximazation test: Contact allergenic.

Exposure. Confidential.

Environmental Release/Disposal. Confidential. Disposal by POTW.

P 86-575

Manufacturer. Sylvachem Corporation.

Chemical. (G) Imidazoline.

Use/Production. (G) Co-reactant to be used in open, non-dispersive use. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 17 workers, up to 3 hrs/da, up to 26 da/yr.

Environmental Release/Disposal. ½ to 1 lb released to land. Disposal by approved landfill.

P 86-576

Manufacturer. Allied Corporation.

Chemical. (G) Aryl alkyl oxime.

Use/Production. (S) Industrial extractant for recovery of palladium metal. Prod. range: Confidential.

Toxicity Data. Acute oral: >5.0 g/kg; Acute dermal: >2.0 g/kg; Irritation: Skin—Moderate, Eye—Non-irritant; Ames test: Not mutagenic; Maximization test: Positive.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-577

Importer. Celanese Speciality Resins, Inc.

Chemical. (G) Diphenol dicyanate.

Use/Import: (S) Industrial monomer for polymerization and binder for use in fiber reinforced composite or encapsulating resins for electronic components. Import range: Confidential.

Toxicity Data. No date on the PMN substance submitted.

Exposure. Processing: dermal, a total of 3 workers, up to 4 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to land. Disposal by Resource Conservation and Recovery Act (RCRA).

P 86-578

Manufacturer. Celanese Specialty Resins, Inc.

Chemical. (G) Dicyanate ester oligomer.

Use/Production. (S) Industrial thermoset resin for use in fiber reinforced structural and electrical composites, encapsulation of electronic components, and heat curable adhesives. Prod. range: Confidential.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal, a total of 4 workers, up to 12 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. Less than 10 to 100 kg/yr released to land. Disposal by RCRA.

P 86-579

Importer. Celanese Specialty Resins, Inc.

Chemical. (G) Diphenol dicyanate.

Use/Import. (S) Industrial monomer for polymerization and binder for use in fiber reinforced composite or encapsulating resins for electric components. Import range: Confidential.

Toxicity Data. No date on the PMN substance submitted.

Exposure. Processing: dermal, a total of 3 workers, up to 4 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. Less than 10 kg/yr released to land. Disposal by RCRA.

P 86-580

Manufacturer. Celanese Speciality Resins, Inc.

Chemical. (G) Dicyanate ester oligomer.

Use/Production. (S) Industrial thermoset resin for use in fiber reinforced structural and electrical composites, encapsulation of electronic components, and heat curable adhesives. Prod. range: Confidential.

Toxicity Data. No date on the PMN substance submitted.

Exposure. Manufacturer: dermal, a total of 4 workers, up to 8 hrs/da, up to 20 da/yr.

Environmental Release/Disposal. Less than 10 to 100 kg/yr released to land. Disposal by RCRA.

P 86-581

Manufacturer. Confidential.

Chemical. (G) A copolymer of 4,4-isopropylidene diphenol-epichlorohydrin resin and phosphoric acid ethylene oxide adduct.

Use/Production. (S) Industrial thermoset epoxy acrylic copolymer for coating metal surfaces. Prod. range: 12,000-24,000 kg/yr.

Toxicity Data. No data on the PMN substance submitted.

Exposure. Manufacture: dermal and inhalation, a total of 5 workers, up to 10 hrs/da, up to 7 da/yr.

Environmental Release/Disposal. Confidential.

P 86-582

Manufacturer. Reichhold Chemicals Inc.

Chemical. (G) Hydrocarbon and octylphenol modified rosin maleic ester.

Use/Production. (G) Constitutent of a lithographic printing ink vehicle for offset and sheetfed lithographic printing processes. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 5 workers, up to 8 hrs/da, up to 91 da/yr.

Environmental Release/Disposal. 66 kg/batch released to air with 500 g/day to land. Disposal by sanitary landfill and mechnical filter system.

P 86-583

Manufacturer. Confidential.

Chemical. (G) Unsaturated dimer, acids, esters with carboxy terminated butadiene—nitrile rubber expoxidized.

Use/Production. (G) Automotive adhesive. Prod. range: Confidential.

Toxicity Date. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-584

Manufacturer. Confidential.

Chemical. (G) Polyhydric phenol, poly diazo naphthoquinone sulfonate.

Use/Production. (G) Coating component. Prod. range: Confidential.

Toxicity Date. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. Confidential.

P 86-585

Importer. Xerox Corporation.

Chemical. (G) Quaternary ammonium salt.

Use/Import. (G) Plastics static control agent. Import range: Confidential.

Toxicity Date. Acute oral: > 5,000 mg/kg; Irritation: Skin—Non-irritant, Eye—Mild.

Exposure. Minimal.

Environmental Release/Disposal. 6.3 kg/yr disposed.

P 86-586

Importer. Xerox Corporation.

Chemical. (G) Substituted naphthalene carboxamide.

Use/Import. (G) Colorant for plastics, contained use. Import range: Confidential.

Toxicity Data. Ames test: Negative; CHO test: Negative.

Exposure. Minimal.

Environmental Release/Disposal. 6.3 kg/yr disposed.

P 86–587

Manufacturer. Confidential.

Chemical. (G) Blocked isocyanate homopolymer.

Use/Production. (S) Site-limited and industrial coatings. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Manufacture: dermal, a total of 10 workers, up to 8 hrs/da.

Environmental Release/Disposal. No release.

P 86–588

Manufacturer. Alcolac Inc.

Chemical. (S) Poly(oxy-1,2-ethandediyl), alpha-(2-methyl-1-oxo-2-propenyl-beta-(dodecyloxy)-.

Use/Production. (S) Aqueous Thickeners. Prod. range: Confidential.

Toxicity Data. No data submitted.

Exposure. Confidential.

Environmental Release/Disposal. 2 to 4 kg/batch released to water. Disposal by POTW and bioponds.

P 86–589

Importer. Confidential.

Chemical. (G) Alkylamine distillation residues.

Use/Import. (S) Industrial stabilizer for polymers in drilling fluids. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86–590

Importer. Confidential.

Chemical. (G) Thermoplastic polyurethane.

Use/Import. (S) Industrial thermoplastic polyurethane for extruded goods. Import range: Confidential.

Toxicity Data. No data submitted.

Exposure. No data submitted.

Environmental Release/Disposal. No data submitted.

P 86–591

Manufacturer. Advanced Glass Systems Corporation.

Chemical. (G) Ionomer polymer (ethylene-methacrylic acid copolymer in salt form).

Use/Production. (S) Site-limited and industrial windshields, bullet resistant or security glass transparencies, and sloped glazing as laminating resin film between glass layers. Prod. range: 50,000-150,000 kg/yr.

Toxicity Data. No data submitted.

Exposure. Manufacture and processing: a total of 3 workers, up to 8 hrs/da, up to 200 da/yr.

Environmental Release/Disposal. 0.5 to 1 lb/day released. Disposal by POTW.

Dated: February 28, 1986.

Denise Devoe,

Acting Director, Information Management Division.

[FR Doc. 86–4905 Filed 3–6–86; 8:45 am]

BILLING CODE 6560–50–M

[PF–436; FRL–2969–8]

Pesticide Tolerance Petitions; American Hoechst Corp. et al.

Correction

In FR Doc. 86–3182, appearing on page 6034, in the issue of Wednesday, February 19, 1986, make the following correction:

On page 6034, second column, under "Initial Filings", the tenth line should read "acid and 2-[4-(2,4-dichloro-".

BILLING CODE 1505–01–M

[OW–FRL–2979–8]

Bacteriological Ambient Water Quality Criteria; Availability

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of bacteriological ambient water quality criteria document.

SUMMARY: Environmental Protection Agency (EPA) announces the availability of a bacteriological criteria document. This document provides guidance on ambient indicator bacterial densities which provide protection from risk of gastro-intestinal disease from swimming in bacteriologically contaminated waters. These criteria are intended to form the basis for enforceable State water quality standards and are published pursuant to section 304(a)(1) of the Clean Water Act.

FOR FURTHER INFORMATION CONTACT: Mr. Kent Ballentine, Environmental Protection Agency, Standards Branch (WH–585), Washington, DC 20460, (202) 245–3030.

SUPPLEMENTARY INFORMATION: Section 304(a)(1) of the Clean Water Act (33 U.S.C. 1314(a)(1)) requires EPA to publish and periodically update ambient water quality criteria. These criteria are to reflect the latest scientific knowledge on the identifiable effects of pollutants on public health and welfare, aquatic life, and recreation.

EPA has periodically issued ambient water quality criteria, beginning in 1973 with the publication of the "Blue Book" (*Water Quality Criteria, 1972*). In 1976 the "Red Book" (*Quality Criteria for Water*) was published. On November 28, 1980 (45 FR 79318), EPA announced the publication of 64 individual ambient water quality criteria documents for pollutants listed as toxic under section 307(a)(1) of the Clean Water Act; a criterion for the 65th pollutant, dioxin, was published on February 15, 1984 (49 FR 583). On July 29, 1985 (50 FR 30784) EPA announced the availability of water quality criteria documents for Ammonia, Arsenic, Cadmium, Chlorine, Chromium, Copper, Cyanide, Lead, Mercury, and Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses.

Today EPA is announcing the availability of a water quality criteria document that updates and revises the bacteriological criteria previously published in, *Quality Criteria for Water.* The Criteria document entitled, *Bacteriological Ambient Water Quality Criteria for Marine and Fresh Recreational Waters,* may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, VA 22161 (phone number (703) 487–4650). The order number of the NTIS publication is PB 86–158–045 (cost $9.95). This revision is based on the relationship between swimming-associated gastrointestinal illness and ambient densities of indicator bacteria. The enumeration of the recommended indicators is based on analytical procedures which have recently been approved by the Agency and described in the report, EPA 600/4–85/076. The research upon which the criteria are based was conducted on beaches officially designated for swimming and which had well defined sources of human fecal pollution. EPA concluded from these studies that the indicator organism group recommended in *Quality Criteria for Water,* the fecal coliforms, is inadequate. The EPA studies demonstrated that the enterococci have a far better correlation with swimming associated gastrointestinal illness in both marine and fresh waters than fecal coliform; and that *E. coli,* a specific bacterial species included in the fecal coliform group, has a correlation with gastro-intestinal illness in fresh waters equal to

the enterococci, but does not correlate as well in marine waters.

Although the waters and pollution sources, of necessity, were rigorously defined in the research, EPA believes that the criteria can be applied to a broader range of waters and conditions than those defined in the research. The State water quality standards currently use the fecal coliform criterion for waters in which incidental swimming may occur and are classified for primary contact. With the exception of shellfish harvesting waters which must relate to shellfish sanitation guidelines and FDA marketplace requirements, EPA believes that all other waters that are classified for primary contact could benefit from the application of the revised and updated criteria.

In response to the request for comments, EPA received fifty one comments from a wide range of private individuals and organizations. About one-half of the responses were from public health officials, approximately one fourth from treatment plant officials and allied engineering firms and the remaining one-fourth from university and government scientists. The comments from the public health sector were generally supportative of the need for an improved criteria but many felt that the criteria proposed on May 24, 1984 (49 FR 21987) did not reflect accepted levels of protection. Those associated with water pollution treatment generally felt that the proposed change offered no significant improvement over the existing fecal coliform criteria and that careful monitoring of the treatment plants, coupled with sanitary surveys, could provide the adequate protection. Increased cost was also cited as a concern. The comments from scientists pointed out technical factors that should be addressed. In addition to the written responses, verbal comments were expressed by those attending the 13 workshops conducted by EPA on the laboratory methodology. These comments, as would be expected, were of the same tenor as those from other public health officials. The interest shown and the depth of the comments, which are sumarized in Appendix A, gives assurance that the general public and those specifically affected have a good understanding of the issues involved. EPA believes that all germane comments have been addressed and that the basic concept upon which the criteria were proposed remains valid. EPA, therefore, recommends that criteria based on *E. coli* and the enterococci organisms be included in State water quality standards for the protection of primary water contact recreation in place of fecal coliforms or the more general total coliforms.

The recommended densities of indicator organisms (*E. coli* and enterococci), upon which the criteria are based, were calculated to approximate the degree of protection now accepted with the currently used indicator organisms (fecal coliforms). The new criteria recommendations by EPA are:

Fresh water: *E. coli*—not to exceed 126/100ml, or enterococci—not to exceed 33/100ml;

Marine water: enterococci—not to exceed 35/100ml;

These criteria are calculated as the geometric mean of a statistically sufficient number of samples, generally not less than five samples equally spaced over a thirty day period.

Different confidence intervals for these criteria are recommended for four levels of swimming use described in the criteria document.

EPA expects a gradual transition from the fecal coliform criteria to the new indicator bacteria by the States. The transition would first involve the inclusion of the updated criteria in the well defined bathing beach waters where the greatest potential for illness exists. Inclusion of the criteria for other primary contact waters would follow on a priority basis for waters with less swimming or full body contact use. The Agency expects the States to include the criteria for applicable waters as soon as practicable.

Dated: February 21, 1986.

Lawrence J. Jensen,

Assistant Administrator for Water.

Appendix A—Response to Public Comments on the Proposed Bacteriological Ambient Water Quality Criteria

Introduction

On May 24, 1984, the U.S. Environmental Protection Agency (EPA) announced the availability of the proposed bacteriological ambient water quality criteria for public comment. In response the Agency received fifty one letters of comment. Technical aspects of the public comments were reviewed by the Agency's Research and Development staff who performed the research leading to the proposed criteria and those responsible for criteria publication. The Agency herein summarizes those comments and addresses the issues raised.

Comment—A number of public health officials felt that the criteria proposed on May 24, 1984 (FR 21987) was more stringent than that now accepted as protective of swimmers and should more closely approximate the level recommended in *Quality criteria for Water*.

Response—A recalculation of the data was made to make the final criteria more closely approximate the currently accepted level.

Comment—Most commenters associated with treatment plants offered the opinion that there was general agreement that the current recommended fecal coliform criterial for full body contact recreational waters was based on inadequate and flawed technical data. They further suggested that the proposed indicators suffer from similar flaws.

Response—Because the proposed indicators, as well as the current indicator species, are comprised of non-pathogenic organisms that are consistently found in the feces of warm blooded animals, the basic problems of using surrogates for expected pathogens remain. The problem include: (1) limited epidemiological data to relate indicator organism densities and illness rates, and (2) a variation in the ratio of indicator organisms to pathogens that can be due to the natural variation of illness in human populations (especially prevalent in areas of small populations). The Agency recognizes that problems associated with non-human indicator organisms and differences due to population variations are not completely solved by the proposed criteria but believes that there is sufficient evidence of the epidemiological relationship between illness and indicator species to warrant use of the proposed criteria. The establishment of indicator species is not intended to replace the use of sanittary surveys to determine unsafe conditions caused by improperly treated sewage discharges or other overt contaminating events.

Comment—A number of commenters were critical of various aspects of the experimental data base. Concern was expressed about the adequacy of the definition of the pollution sources in the study area, the variation of illness between the high and low polluted beaches studied, variation in analytical methods, variation in rate of illness and bacterial levels, and lack of studies on a fecal coliform to illness ratio.

Response—The pollution sources for marine beaches were described as diffuse and most were raw sewage. The freshwater beaches were within ¾ miles to five miles from sewage treatment plants outfalls.

In experimental work of a biological nature it is expected that results will vary and reliance on statistical analysis

is needed to ascertain the overall effect. The Agency believes that the data and the analysis warrant the conclusion that the proposed criteria provide a reasonable degree of improvement in relating bacterial indicator densities to the potential of contracting gastrointestinal illness from swimming in polluted waters. It was determined that the relationship correlating fecal coliform and illness was poor relative to that found for enterococci in marine waters and with *E. coli* and enterococci in fresh waters. One commenter indicated that his statistical evaluation of the data showed a good correlation between fecal coliform and swimmers' illness rate at on location. It would be expected that at individual locations a reasonable correlation between fecal coliforms *E. coli* and swimmer illness would occur. However, the EPA studies demonstrated that such correlation does not exist in general, and were not useful for prediction at other locations. Thus, relative to enterococci and *E. coli*, the fecal coliform relationship to swimming-associated disease was not a good one in general and, therefore, fecal coliforms were not considered an appropriate predictor of disease potential.

Comment—One commenter stated that his statistical analysis indicated that the data collected from the swimming beach studies provided no evidence which warrants the replacement of fecal coliform with *E. coli* and enterococci as a measure of the suitability of beach waters for recreational purposes.

Response—It is EPA's judgment that the variations shown by statistical analyses do not affect the overall results of the EPA studies. EPA's studies confirm that even though bacterial parameters are highly variable, proper statistical analysis yields predictable results. However, because the bacterial densities were low and the disease incidence low, occasional anomalous results may occur. Seldom in comparative studies did the control population disease rate exceed the swimmers disease rate.

Comment—A few commenters were concerned that the use of enterococci to monitor water quality would not measure the risk due to contamination by animal feces.

Response—This concern is not considered a serious problem since the two enterococci that grow best on the recommended medium are *S. faecalis* and *S. faecium* which are found together or singly in most animals. Thus, the Agency believes that any risk associated with contact with water contaminated with animal fecal material will be indexed by the recommended analytical procedures.

Comment—Commenters in areas where non-point animal fecal material runoff was a source of contamination of waters designated for recreational swimming were concerned that runoff associated organisms may cause indicator densities to exceed the recommended criteria.

Response—It has been the Agency's policy to consider waters polluted by animal fecal material to be as hazardous as waters polluted by human fecal contamination. There is, however, no direct evidence that swimming-associated disease, other than leptospirosis, can be traced to animal sources. EPA has ongoing research aimed at determining the impacts on gastroenteritis in humans from non-point source pollution. At the present time, there is no reason to change the Agency's policy.

Comment—Some commenters noted that only gastroenteritis was considered in the data leading to the recommended criteria.

Response—Many other symptomatic illnesses were observed during the Agency's recreational water quality studies, however none showed a functional relationship to bacteriological quality of the water. In general, swimmers appeared to have more eye, ear, and nose infections, respiratory infections and skin infections than nonswimmers, but these differences were seldom statistically significant. Gastrointestinal illnesses, on the other hand, were significantly associated with polluted water and did show a functional relationship to water quality measured with bacterial indicators of fecal contamination. Since non-gastrointestinal illnesses are associated with polluted and non-polluted waters, no form of intervention is available to prevent them. Thus, these illnesses were not addressed. The Agency has supported other research on *otitis externa* in swimmers to evaluate the effect of water quality on this disease and these studies found that there was no association between abnormal ear flora and bacterial indicators of water quality, such as *E. coli*, enterococci and *Pseudomonas aeruginosa*.

Comment—Many of those involved in laboratory analysis expressed concern about the length of time needed for the enterococci test.

Response—The method for enumerating enterococci in water samples does require 48 hours to complete. This added time is not considered vital because these criteria are not intended to be used for daily decisions on closures, but rather more general assessments of the suitability of water quality for the use. The day-to-day evaluation of the suitability of a beach for swimming would be a local health department consideration. Health Departments, for instance, may develop a relationship between rainfall and microbiological quality of water at beaches so that daily decisions could be made on beach closure. These daily decisions must be made with knowledge of the adequacy of impacting sewage plants or other known containment discharges. Timely reports must be made to health authorities on the bypassing of sewage and breakdown of disinfection procedures.

Comment—Most commenters associated with microbiological laboratories indicated that laboratory workers had little or no handson experience with the analytical methodology described in the criteria document for *E. coli* and enterococci. Additionally, these commenters were concerned about the formal publication of the methods and the commercial availibility of the bacteriological media for the analytical procedures.

Response—Recognizing that many of the State and municipal laboratory staff had no direct experience with the methods, the Agency conducted 13 analytical methodology workshops throughout the United States and Canada during 1985. Over two hundred people associated with laboratories attended these workshops, giving the Agency good assurance that experience with the procedures was well distributed. Additionally the Agency conducted extensive precision and bias testing on the methods in eleven different laboratories to assure users of the procedures that results were accurate and reproducible. The results of the precision and bias testing provide the justification to include the method in the Agency's methods manual. The EPA report, EPA–600/485/076, entitled *Test methods for Escherichia coli and Enterococci In Water By The Membrane Filter Procedure*, outlines the procedures. This document may be obtained from the National Technical Information Service (NTIS), 5285 Port Royal Road, Springfield, Virginia 22161, (phone number (703) 487–4650). The order number of the NTIS publication is PB 86–158–052 (cost $8.95). The Agency also received assurance from a major commercial distributor of bacteriological media that the special media would be placed on the market.

Comment—Some commenters were concerned that turbidity could interfere

with the use of membrane filter methods.

Response—The use of the membrane filter procedures during the course of ther EPA recreational water quality studies was not compromised because of turbidity. The MPN procedure for fecal coliform was used during the first year of the studies and abandoned when it became obvious that membrane filter procedures would be adequate.

Comment—Several commenters asked why there was a poor correlation of *E. coli* to illness at marine water beaches.

Response—The poor correlation between swimming-associated gastroenteritis and *E. coli* or fecal coliforms at marine beaches was most likely due to the injurious effects of seawater on coliform bacteria causing high die-off rates. The variability of the response of coliforms to seawater probably is more evident for *E. coli* than for fecal or total coliforms because of the heterogeneity of the fecal or total coliform groups.

Comment—One commenter asked if *Streptococcus faecalis var. liquifaciens* species would affect risk determinations, when using enterococci.

Response—The effect of these species on the relationship between water quality and swimming-associated illiness apparently is not great, at least with bathing beach waters contaminated by point sources of pollution. Despite the probable presence of *S. faecalis var. liquifaciens*. the Density of the enterococci indicator group in seawater showed the best relationship to swimming-associated gastroenteritis. This would probably not occur if there was significant interference from this enterococci which is not a species normally inhabiting the intestines of warm blooded animals.

Comment—Concern was expressed that the use of the proposed criteria will result in increased capital and operating expenses for municipal sewage treatment disinfection facilities.

Response—In most cases the risk currently being accepted at swimming beaches will continue to be accepted. Since currently accepted levels of protection will continue EPA does not believe that State adoption of the recommended criteria will generate a widespread need for improved treatment nor a general increase in cost of treatment.

Comment—The point was made that the adoption of the proposed national bacterial bathing beach criteria for *E. coli* and enterococci will result in confusing and overlapping environmental regulations for protecting drinking water and shellfish harvesting waters which are based on fecal coliform or total coliforms. For example, marine bathing beaches, drinking water supply intakes, and shellfish harvesting areas will be required to comply with two conflicting and overlapping sets of bacterial water quality criteria.

Response—The recommended criteria are aimed at waters classified for recreational swimming. Where the criteria can be advantageously used for this and other ambient water uses, they will replace existing criteria through the States' water quality standards review and revision process. Regulations pertaining to drinking waters and shelllfish harvesting are not affected by this criteria recommendation. It is true that some overlap will occur but EPA believes that risk prediction capability of the new indicators justifies their adoption into State Water Quality Standards.

Comment—Several respondents made the point that no evidence was offered to show that *E. coli* and enterococci are indicators of viral enteritis, postulated as the probable cause of most cases of swimming contracted gastroenteritis.

Response—There is no practical way to confirm that enteric viruses were the cause of the illiness reported. Based on the best medical and epidemiological information, viruses were assumed to be the most likely causes. The indicator procedure is designed to detect feces associated organisms contained in sewage and cannot differentiate between causes of illness.

Comment—Some commenters indicated that the statistical model used in the criteria document cannot be used to obtain a single value for *E. coli*, enteroccocci, or any other bacterial indicator systems. Rather the model can only be used to obtain a possible range of values for such use.

Response—EPA recognizes that the criterion is based on a statistical model and that there will be variation around the prediction. These variations should be considered in the monitoring approach.

Comment—A question was raised concerning the nomenclature for *E. coli*. A commenter offered the opinion that the proposed protocol for identifying the bacterial species, *E. coli*. in fresh water is based on counting colonies differentiated on a new membrane filter MF medium (M-TEC) which does not fully define *E. coli*. Therefore, the use of a nomenclature that is species specific is not defensible in the scientific community.

Response—The use of a minimal number of biochemical or physical tests to identify an indicator bacterium species is a well established procedure. Bacteriologists in England have been doing it for many years. Report No. 71 on Public Health and Medical Subjects, The Bacteriological Examination of Water Supplies, which contains standard methods followed in England states that the indole test carried out on colonies which ferment lactose at 44° C provides a means of distinguishing *E. coli*. from other coliforms that ferment lactose at that temperature. Unlike the European bacteriologists who use the term "fecal coli", the British bacteriologists use the term *E. coli*. The nomenclature associated with the mTEC method uses the same reasoning to identify the organisms isolated by this procedure. Colonies that ferment lactose at 44.5° C on the mTEC medium are, in fact, fecal coliforms which generally include *E. coli., Klesiella* sp. and sometimes *Enterobacter* and *Citrobacter* species. The latter three species can be differentiated with an *in situ* test for the enzyme urease which they possess. *E. coli*. comprise about 87% of the total organism enumerated. Although some few may be erroneously named, the density of this indicator bacterium and its correlation to the rate of swimming-associated illness is not affected.

Comment—Some commenters expressed concern about the implied correlation of *E. coli*. and the traditional fecal coliform to risk of illness in the draft criteria document.

Response—In the final document a direct mathematical calculation was used to determine equivalent stringency between fecal coliform and the new indicators. The calculations were based on all data collected by Dufour and Cabelli.

Comment—A question was raised about why current and past fecal coliform data were not used.

Response—Current and past fecal coliform data would not provide meaningful information about potential health effects associated with any particular body of water since this indicator group did not show a direct relationship to swimming associated illness in the EPA recreational water quality studies. *E. coli*. densities were shown to be directly related to the swimming associated illness rate in fresh water environments. In general, this means that, relative to swimming associated illness, fecal coliform and *E. coli*. are poorly related.

Comment—A number of those associated with laboratories were concerned about increased cost of performing the analysis.

Response—The additional cost for materials alone, i.e., the medium. is negligible. For the *E. coli*. method, there is no difference. For the enterococci

method, the cost of the medium is approximately 50% more. The actual time spent assaying each sample is somewhat longer for the new methods because of the need to physically transfer the membrane, but even this part of the procedure does not significantly increase the time needed to complete the test.

Comment—Commenters involved with shellfish harvesting asked if the criteria would be applicable to shellfish harvesting waters.

Response—No, it is not applicable to shellfish waters. However, the Agency is currently examining the relationship between shellfish harvesting water quality and health effects in shellfish consumers. Future plans call for the examination of the relationship between bacterial indicator systems and health effects with water consumption.

[FR Doc. 86-5013 Filed 3-6-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-758-DR]

California; Amendment to Notice of a Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of California (FEMA-758-DR), dated February 21, 1986, and related determinations.

DATED: February 27, 1986.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice

The notice of a major disaster for the State of California, dated February 21, 1986, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 21, 1986:

Calaveras, El Dorado, Mendocino, Placer, Plumas, and San Joaquin Counties for Individual Assistance

Alpine, Amador, Butte, Colusa, Lassen, Sierra, Sutter, Tehama, Tuolumne, and Yolo Counties as adjacent areas for Individual Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Samuel W. Speck,

Associate Director, State and Local Programs and Support Federal Emergency Management Agency.

[FR Doc. 86-4965 Filed 3-6-86; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL HOME LOAN BANK BOARD

Sierra Federal Savings & Loan Association, Denver, CO; Replacement of Conservator With Receiver

Notice is hereby given that pursuant to the authority contained in section 5(d)(6)(D) of the Home Owners Loan Act of 1933, as amended, 12 U.S.C. 1464(d)(6)(D) (1982), the Federal Home Loan Bank Board replaced D. J. Fair as conservator for Sierra Federal Savings and Loan Association, Denver, Colorado ("Association") with the Federal Savings and Loan Insurance Corporation as sole receiver for Sierra Federal Savings and Loan Association on February 28, 1986.

Dated: March 4, 1986.

Jeff Sconyers,

Secretary.

[FR Doc. 86-5030 Filed 3-6-86; 8:45 am]

BILLING CODE 6720-01-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 1984.

Interested parties may inspect 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 section 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.: 203-009735-015.

Title: Steamship Operators Intermodal Committee Agreement.

Parties:

Associated Container Transportation (Australia Ltd.)
Atlantic Container Line G.I.E.
Barber Blue Sea Line
Companhia de Navegacao Maritima Netumar
Coordinated Caribbean Transport, Inc.
Evergreen Marine Corp., Ltd.
Farrell Lines, Inc.
Flota Mercante Grancolombiana
Columbus Line
Japan Line, Ltd.
Kawasaki Kisen Kaisha, Ltd.
Lykes Bros. Steamship Co., Inc.
A. P. Moller-Maersk Line
Neptune Orient Lines, Ltd.
Nippon Yusen Kaisha, Ltd.
Sea-Land Service, Inc.
South African Marine Corp.
United States Lines, Inc.
Venezuelan Line
Yamashita-Shinnihon Steamship Co., Ltd.
Yang Ming Line
Zim Israel Navigation Co., Ltd.
American President Lines, Ltd.
Mitsui O.S.K. Lines, Ltd.
Seapac Services, Inc.
Showa Lines, Ltd.

Synopsis: The proposed amendment would add Showa Line, Ltd. as a party to the agreement.

Agreement No.: 207-009882-006.

Title: Pacific Australia Direct Line Joint Service Agreement.

Parties:

Associated Container Transportation (Australia) Ltd.
Rederiaktiebolaget Transatlantic

Synopsis: The proposed agreement would extend the date which the parties may give notice of termination of the agreement (in the event a party desires to terminate the agreement as of October 21, 1986) from March 1, 1986 to May 1, 1986.

Dated: March 4, 1986.

By Order of the Federal Maritime Commission.

John Robert Ewers,

Secretary.

[FR Doc. 86-5029 Filed 3-6-86; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following persons have filed applications for licenses as ocean freight forwarders with the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and 46 CFR 510.

Persons knowing of any reason why any of the following persons should not receive a license are requested to contact the Office of Freight Forwarders,

Federal Maritime Commission, Washington, DC 20573.

Precondoc, Inc. d.b.a. Pecan International Forwarders, 147–02 Farmers Blvd., Jamaica, NY 11434. Officers: Norman Cruz, President; Angel Ithier, Executive Vice President.

Brian A. Hill & Company, Inc., Hill Cargo Bldg., Logan International Airport, East Boston, MA 02128. Officers: Brian A. Hill, President Treasurer/Director; William A. Zarella, Vice President; Herbert J. Lynch, Clerk/Director; Deborah Borneheimer, Director.

By the Federal Maritime Commission.

Dated: March 3, 1986.

John Robert Ewers,

Secretary.

[FR Doc. 86–4948 Filed 3–6–86; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Revocations; New York Forwarding Services, 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.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License Number: 2769.
Name: New York Forwarding Services, Inc.
Address: 744 Broad Street, Suite 1324A, Newark, NJ 07102.
Date Revoked: February 12, 1986.
Reason: Failed to maintain a valid surety bond.

License Number: 2476.
Name: Quick International Service, Inc.
Address: 5220 N.W. 72nd Avenue, Bay 23, Miami, FL 33166.
Date Revoked: February 14, 1986.
Reason: Failed to maintain a valid surety bond.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 86–4958 Filed 3–6–86; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License Reissuance of License; S & Z International Air Forwarders, Inc.

Notice is hereby given that the following ocean freight forwarder license has been reissued by the Federal Maritime Commission pursuant to section 19 of the Shipping Act, 1984 (46 U.S.C. app. 1718) and the regulations of the Commission pertaining to the licensing of ocean freight forwarders, 46 CFR 510.

License No.	Name/Address	Date Reissued
2668	S & Z International Air Forwarders, Inc., P.O. Box 8778, BWI Airport, MD 21240	Feb. 14, 1986

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 86–4959 Filed 3–6–86; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Bank South Corp. et al., Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 27, 1986.

A. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *Bank South Corporation*, Atlanta, Georgia; to engage *de novo* through its subsidiary, Bank South Services Corporation, Atlanta, Georgia, to own, install, and operate electronic fund transfer (EFT) terminals and equipment in retail locations owned and operated by unaffiliated entities, and to provide data processing and transmission of financial, banking and economic data, pursuant to § 225.25(b)(7) of Regulation Y; and to engage in management consulting to depository institutions, pursuant to § 225.25(b)(11) of Regulation Y. These activities would be conducted throughout the State of Georgia.

B. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Ameritex Bancshares Corporation*, Dallas, Texas; to engage *de novo* through its subsidiary, Ameritex Service Corporation, Dallas, Texas, in providing to others financially related data processing, data transmission services, facilities and data bases or access to them, pursuant to § 225.25(b)(7) of Regulation Y.

Board of Governors of the Federal Reserve System, March 3, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–4961 Filed 3–6–86; 8:45 am]

BILLING CODE: 6210–01–M

Champlain Bank Corp., et al.; Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and §§ 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on

an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than March 29, 1986.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Champlain Bank Corporation,* Willsboro, New York; to become a bank holding company by acquiring 100 percent of the voting shares of Essex County-Champlain National Bank, Willsboro, New York.

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Dominion Bankshares Corporation,* Roanoke, Virginia; to acquire 100 percent of the voting shares of National Bank of Commerce, Washington, D.C. Comments on this application must be received not later than March 31, 1986.

C. **Federal Reserve Bank of Atlanta** (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

1. *SouthTrust Corporation,* Birmingham, Alabama; to acquire 60 percent of the voting shares of The Bank of Ozark, Ozark, Alabama.

2. *Union Bancshares of Campbell County, Inc.,* Jellico, Tennessee; to become a bank holding company by acquiring 80 percent of the voting shares of Union Bank, Jellico, Tennessee.

D. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Polk County Bancorporation, Inc.,* Polk County, Iowa; to become a bank holding company by acquiring 84.90 percent of the voting shares of The Polk City Savings Bank, Polk City, Iowa.

E. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *First FSB Bancshares, Inc.,* Italy, Texas; to become a bank holding company by acquiring 100 percent of the FSB Bancshares, Inc., Waco, Texas, thereby indirectly acquiring First State Bank, Coolidge, Texas; First State Bank, Italy, Texas; and First State Bank, Mount Calm, Texas.

Board of Governors of the Federal Reserve System, March 3, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-4962 Filed 3-6-86; 8:45 am]

BILLING CODE 6210-01-M

Creditanstalt-Bankverein et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) of (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than March 29, 1985.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Creditanstalt-Bankverein,* Vienna, Austria; to acquire Pacific Overseas Finance Corporation, San Francisco, California, and thereby engage in trade financing services for exporters and importers, pursuant to section 225.25(b)(1), including: the arranging of buyer credit, supplier and distributor credit, and trade related preexport and inventory financing; the issuing of confirmations of payment in connection with international trade transactions in favor of United States suppliers of goods; and the provision of such other servicing of trade financing transactions as may be agreed upon between Pacific Overseas Finance Corporation and the financial institutions providing the trade financing. Comments on this application must be received not later than March 26, 1986.

B. **Federal Reserve Bank of Chicago** (Franklin D. Dreyer, Vice President) 230 South LaSalle Street, Chicago, Illinois 60690:

1. *Central Wisconsin Bancshares, Inc.,* Wausau; to acquire First American Investment, Incorporated, Wausau, Wisconsin, and thereby engage in securities brokerage activities, pursuant to § 225.25(b)(15) of Regulation Y.

Board of Governors of the Federal Reserve System, March 3, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-4963 Filed 3-6-86; 8:45 am]

BILLING CODE 6210-01-M

The First of Long Island Corp. et al.; Acquisitions of Companies Engaged in Permissible Nonbanking Activities

The organizations listed in this notice have applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased

competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated for the application or the offices of the Board of Governors not later than March 27, 1986.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *The First of Long Island Corporation*, Glen Head, New York; to engage *de novo* through its subsidiary, Island Computer Corporation, Bohemia, New York, in the processing of incoming and outgoing cash letters, DDA checking (which includes deposit sorting and posting) and account reconciliation, time deposit accounting, club accounting, and certain certificate of deposit accounting, which includes the computation and posting of interest, pursuant to § 225.25(b)(7) of the Board's Regulation Y.

2. *Suffolk Bancorp*, Riverhead, New York; to engage *de novo* through its subsidiary, Island Computer Corporation, Bohemia, New York, in processing of incoming and outgoing cash letters, DDA checking (which includes deposit sorting and posting) and account reconciliation, time deposit accounting, club accounting, and certain certificate of deposit accounting, which includes computation and posting of interest, pursuant to § 225.25(b)(7) of the Board's Regulation Y

B. **Federal Reserve Bank of Richmond** (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Sovran Financial corporation*, Norfolk, Virginia; to acquire 5.4 percent of the voting shares of Internet, Inc., Reston, virginia and thereby engage in electronic funds transfer activities, pursuant to § 225.25(b)(1) and (7) of the Board's Regulation Y. These activities would be conducted in Washington, DC, Maryland, and Virginia. Comments on this application must be received not later than March 20, 1986.

2. *Sovran Financial corporation*, Norfolk, Virginia; to acquire Suburban Service Corporation, Bethesda, Maryland, a wholly-owned subsidiary of Suburban Bancorp, Bethesda, Maryland, and thereby engage in electronic funds transfer activities through a joint venture with giant automatic Money Systems, Inc., a wholly-owned subsidiary of Giant Foods, Inc., Landover, Maryland. The joint venture will provide support services to cash dispensing machines including managing a computerized electronic transfer switch, pursuant to § 225.25(b)(7) of the Board's Regulation Y. These activities would be conducted in Maryland and Washington, DC. Comments on this application must be received not later than March 20, 1986.

Board of Governors of the Federal Reserve System, March 3, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-4964 Filed 3-6-86; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Statements of General Policy or Interpretation Proposed Official Staff Commentary on Fair Debt Collection Practices Act

AGENCY: Federal Trade Commission.

ACTION: Proposed official staff commentary.

SUMMARY: The Commission staff is seeking comment on its proposal for a commentary on the Fair Debt Collection Practices Act that will supersede all previously issued staff interpretations of the Act. The purpose of the commentary is to clarify and codify these interpretations.

DATE: The Commission staff is requesting public comment on the proposed official staff commentary until May 6, 1986.

ADDRESS: Comments on the commentary should be sent to: Secretary, Federal Trade Commission, Attention: FDCPA Commentary, Washington, DC. 20580.

FOR FURTHER INFORMATION CONTACT: Clarke Brinckerhoff, Attorney, John F. LeFevre, Program Advisor, General Credit Program, Division of Credit Practices, Federal Trade Commission, Washington, DC. 20580, (202) 724-1143 or 724-1185.

SUPPLEMENTARY INFORMATION:

Background

The Fair Debt Collection Practices Act (15 USC 1692 et seq.) was enacted on September 20, 1977, and became effective on March 20, 1978. The Act regulates the collection activities of independent debt collectors and specifically proscribes certain practices found by Congress to be deceptive, unfair, or abusive to consumers. It also requires debt collectors to disclose certain information to consumers about the debts being collected, as well as about consumers' rights to dispute and obtain verification of their debts. Finally, it requires debt collectors to abide by consumers' written requests to cease all further communication about their debts.

Section 814 (15 USC 1692(1)) gives the Federal Trade Commission primary responsibility for the Act's administration and enforcement, using all the functions and powers that it has under the Federal Trade Commission Act. Although the Commission has initiated a number of formal actions against debt collectors in the eight years since the Fair Debt Collection Practices Act became effective, a significant part of its activity has involved informal staff interpretations issued by the staff of the Bureau of Consumer Protection's Division of Credit Practices in response to hundreds of requests from consumers and industry. There are now approximately 210 interpretations totally more than 1,000 pages. Although many interpretations have been published in three volumes as official staff interpretations, they are inadequately indexed and are only occasionally cross-referenced. Some have been superseded or overruled by court opinions, by subsequent interpretations, or by consent judgments obtained in the Commission's enforcement program. Others reflect a reading of the statute that is either inconsistent with the Act's language or purpose, or is inappropriate in light of subsequent experience. As a result, these informal staff letters appear to be of little assistance to debt collectors, consumers, or their respective counsel, in interpreting the Act.

The Bureau of Consumer Protection staff believes that this system of interpreting the Act needs to be streamlined and brought up-to-date. For this reason, the staff has prepared a "commentary" on the Act. The staff reviewed all the interpretations, resolved inconsistencies, and discarded those that it believes are not supported by the Act or that merely paraphrase the Act without clarifying its meaning. The Consumer Protection staff summarized the remaining interpretations that the staff believes need clarification in one document that comments upon each

provision of the statute that has given rise to questions.

Changing the current system will offer three benefits. First, modifying and simplifying the format of the staff interpretations will make it easier for interested parties to find answers to their questions. Currently, the interpretations are voluminous and difficult to handle and, in their present format, cannot effectively communicate staff's views about the Act to the public.

Second, the commentary will present a more comprehensive view of the statute. Previously, a particular interpretation might have been useful only for parties whose specific problems were similar to the factual situation addressed in the interpretation, since the interpretations did not provide a rationale that could be more generally applied, when appropriate, to a larger number of factually related cases. Additionally, there are portions of the statute that may need clarification but have not been interpreted at all. The staff has addressed these problems in the proposed commentary by (1) expanding the discussion of certain portions of the statute, where appropriate, and (2) providing views on some portions of the statute that have not been the subject of previous interpretations.

Third, the commentary's pre-emption of inconsistent and inaccurate advice in some prior interpretations should increase compliance with the Act. Members of the debt collection industry are more likely to rely on staff interpretations for guidance if the interpretations consistently offer sound advice.

The proposed commentary presents the most helpful of the existing interpretations and interprets other portions of the statute, where needed, in a clear and comprehensible format. Some previous interpretations have been eliminated, some have been recast, and some remain as originally published. All have been drafted to include only the essential elements of the principle involved to make them easy to understand. Since they are only interpretations, however, they are not trade regulation rules or regulations, and therefore have no binding effect on the Commission or the public.

The following paragraphs highlight some subjects where the views expressed in the commentary are different either in substance or emphasis from those expressed in prior informal staff interpretations. This list is not all-inclusive.

1. *Inclusion of Taxes and Fines in the Definition of "Debt"* (section 803(5)). The commentary overrules interpretations that taxes and fines may be "debts" within the meaning of the Act, because they do not result from a transaction involving purchase of a property or service. It is in accord with the well-reasoned opinion of the Court of Appeals in *Staub* v. *Harris*, 626 F.2d 275 (3d Cir. 1980), which specifically rejected the prior staff opinions that taxes are debts.

2. *Scope ofthe exemption for attorneys* (section 803(6)(F)). The meaning of the phrase "collecting a debt as an attorney on behalf of and in the name of a client" has been the subject of much discussion and confusion. The commentary eliminates all previous interpretations and substitutes the standards outlined in the Commission's statement accompanying its recent consent judgment in *United States* v. *Shaffner*, Civil Action No. 83–C–3130 (N.D. Ill. 1983). It includes within the exemption attorneys conducting professional legal services, but excludes attorneys operating traditional debt collection agencies.

3. *Calls at Inconvenient Times* (section 805(a)(1)). Some previous staff interpretations stated that Sunday calls by a collector to a consumer are illegal *per se*. The commentary overrules these opinions, which are inconsistent with the Act's flexible treatment of this issue.

4. *Incidental Contacts with Telephone Operators* (section 805(b)). Previously issued interpretations considered certain incidental collection contacts with telephone operators, which occurred in the course of calling a consumer, to be illegal third party contacts. The commentary overrules these opinions, and states that there is no violation where the sole purpose of the contact with an operator (or telegraph clerk) is transmission of a message, and the information conveyed is limited to that necessary to enable the debt collector to make contact with the consumer. It is staff's view that the communication is with the consumer, not the operator, and that this section was not intended to prohibit incidental contacts with intermediaries who are assisting a debt collector to communicate with the consumer.

5. *Reference to "Copy of a Judgment" in Validation Notice* (sections 807(2)(A); 809(a)(4)). Previous staff interpretations stated that there must be a judgment in existence if the words "copy of a judgment" are included in the validation notice sent out by a debt collector to comply with § 809(a)(4), or the notice including this phrase would violate § 807(2)(A) by misleading the consumer as to the legal status of the debt. Because the practical effect of these interpretations has made compliance with one section of the Act (section 809(a)(4)) a violation of another (section 807(2)(A)), the commentary overrules this position and states that the phrase may be used in the notice, whether or not a judgment in fact exists. The staff's current position is in accord with the decision in *Blackwell* v. *Professional Business Services of Georgia, Inc.*, 526 F. Supp. 535 (N.D. Ga. 1981), which specifically rejected the staff opinions to the contrary.

6. *Reference to Impending Action* (section 807(5)). A number of previous interpretations imposed differing, and sometimes inconsistent, standards concerning the circumstances under which a debt collector is permitted to represent that legal action or other action may or will occur. The commentary supersedes these interpretations and substitutes the more uniform standards imposed in the Commission's most recent consent judgments concerning this issue.

7. *Required Disclosures in Collection Communications* (section 807(11)). Some courts have required the designated disclosures in every single written and oral collection communication to the consumer and third parties. The commentary interprets the subsection less strictly, taking into account situations where the disclosures do not appear necessary, in accordance with the Commission's Sixth and Seventh Annual Reports to Congress and with the most recent Court of Appeals decision in *Pressley* v. *Capital Credit and Collection Service, Inc.*, 760 F.2d 922 (9th Cir. 1985).

8. *General Elements of Unfairness* (section 808). Previous staff interpretations have not addressed what criteria will be used in determining whether an act or practice violates the basic requirements of § 808. The commentary addresses these issues, stating that an act by a debt collector will be deemed "unfair" if it causes injury to a consumer that is substantial, not reasonably avoidable, and is not outweighed by countervailing benefits.

9. *Surcharges* (Section 808(1)). A number of early interpretations have attempted to prescribe varying standards concerning (1) when a "surcharge" is permitted and (2) how much it should be. The commentary overrules these interpretations and establishes that state law will determine the result, because this approach is consistent with the specific language of the Act.

10. *Form of Validation Notice* (Section 809(a)). Several staff interpretations have indicated that the statement of consumer rights required by section

809(a)(3–5) may be on a separate piece of paper from (or the reverse side of) the disclosure of the debt required by section 809(a)(1–2) only if there is clear notice on the first piece (or in front of) the disclosure. The commentary overrules these opinions, because the Act contains no requirements as to particular form, sequence, or location for such a statement.

Requests for Information

The staff of the Bureau of Consumer Protection's Division of Credit Practices will accept written comments on the proposed staff commentary for a period of sixty days. The Commission staff is interested in receiving comments to aid in its consideration of the commentary, because it recognizes that it may have a substantial impact on the debt collection industry and the consuming public. Comments may be addressed to any aspect of the commentary, including the following:

(1) Is a commentary and acceptable format in which to communicate staff views on the FDCPA? Are members of the public (including the debt collection industry, consumers, and others) more likely to rely on the commentary than on existing staff interpretations of the Act? Why or why not?

(2) The proposed commentary (A) eliminates interpretations that are considered to be relatively unimportant, (B) recasts or overrules other interpretations that appear inaccurate, or inconsistent with other more recent interpretations, and (C) restates the remaining interpretations in a more understandable format. Are the modifications made by the proposed commentary beneficial to the industry and members of the public?

(13) Are there any changes from prior staff interpretations reflected in the commentary that you think are particularly valuable? If so, which one(s) and why?

(4) Will any part of the commentary as presently drafted impose unnecessary burdens on industry or cause unnecessary injury to consumers?

By direction of the Commission.

Emily H. Rock,

Secretary.

Federal Trade Commission Staff Commentary on the Fair Debt Collection Practices Act

Introduction

This Commentary is the vehicle by which the staff of the Bureau of Consumer Protection publishes its interpretations of the Fair Debt Collection Practices Act (FDCPA). It is a guideline intended to clarify the staff interpretations of the statute, but does not have the force on effect of statutory provisions. It is not a formal trade regulation rule or advisory opinion of the Commission, and thus is not binding on the Commission or the public.

The Commentary is based primarily on issues discussed in informal staff letters responding to public requests for interpretations and on the Commission's enforcement program, subsequent to the FDCPA's enactment. It is intended to synthesize staff views on important issues and to give clear advice where inconsistencies have been discovered among staff letters. In some cases, reflection on the issues posed or relevant court decisions have resulted in a different interpretation from that expressed by staff in those informal letters. Therefore, the Commentary supersedes the staff views expressed in such correspondence. However, the Bureau of Consumer Protection staff will not recommend an enforcement action for prior conduct in reliance upon previous staff advice that we now overrule or otherwise modify.

In many cases several different sections or subsections of the FDCPA may apply to a given factual situation. This results from the effort by Congress in drafting the FDCPA to be both explicit and comprehensive, in order to limit the opportunities for debt collectors to evade the underlying legislative intention. Although it may be of only technical interest whether a given act violates one, two, or three sections of the FDCPA, the staff has attempted to refer to all applicable sections so that the Commentary may serve as a comprehensive reference for its users. The Commentary contains discussions of the most common overlapping references (usually under the heading "Relation to other sections"), and deals with issues raised by each factual situation under the section or subsection that staff deems most directly applicable to it.

The Commentary will be revised and updated by the staff as needed, based on the experience of the Commission in responding to public inquiries about, and enforcing, the FDCPA. The Commission welcomes input from interested industry consumer, and other public parties on the Commentary and on issues discussed in it.

Staff will continue to repond to requests for informal interpretations. Updates of the Commentary will consider and, where appropriate, incorporate issues raised in correspondence and other public contacts, as well as the Commission's enforcement efforts. Therefore, a party who is interested in raising an issue for inclusion in future editions of the Commentary does not need to make any formal submission or request to that effect. However, requests for formal advisory opinions of the Commission must still be made in accordance with Commission rules [16 CFR 1.2].

The Commentary should be used in conjunction with the statute. The abbreviated description of each section or subsection in the Commentary is designed only as a preamble to discussion of issues pertaining to each section, and is not intended as a substitute for the statutory text.

The Commentary should not be considered as a reflection of all court rulings under the FDCPA. Indeed, the staff's enforcement position may not be in accord with some judicial interpretations of the statute, particularly on issues that have been addressed only by lower courts or that have been addressed by the courts in ways that are not consistent with one another.

Section 801—Short Title

Section 801 names the statute the "Fair Debt Collection Practices Act."

The Fair Debt Collection Practices Act (FDCPA) is Title VIII of the Consumer Credit Protection Act, which also includes other federal statutes relating to consumer credit, such as the Truth in Lending Act (Title I), the Fair Credit Reporting Act (Title VI), and the Equal Credit Opportunity Act (Title VII).

Section 802—Findings and Purpose

Section 802 recites the Congressional findings that serve as the basis for the legislation.

Section 803—Definitions

Section 803(1) defines "Commission" as the Federal Trade Commission.

1. *General.* The definition includes only the Federal Trade Commission, not necessarily the staff acting on its behalf.

Section 803(2) defines "communication" as the "conveying of infoirmation regarding a debt directly or indirectly to any person through any medium."

1. *General.* The definition includes oral and written transmission of messages which refer to a debt.

2. *Exclusions.* The term does not include situations where the debt collector does not convey information regarding the debt, such as:

• A request to a third party for a consumer to return a telephone call to the debt collector, if the debt collector does not refer to the debt or the caller's status as (or affiliation with) a debt collector.

• A request to a third party for information about the consumer's assets, if the debt collector does not reveal the existence of a debt.

Section 803(3) defines "consumer" as "any natural person obligated or allegedly obligated to pay any debt."

1. *General.* The definition includes only a "natural person" and not an artificial person such as a corporation or other entity created by statute.

Section 803(4) defines "creditor" as "any person who offers or extends credit creating a debt or to whom a debt is owed." However, the definition excludes a party who "receives an assignment or transfer of a debt in default solely for the purpose of facilitating collection of such debt for another."

1. *General.* The definition includes the party that actually extended credit or became the obligee on an account in the normal course of business, and excludes a party that was assigned the debt only for collection purposes.

Section 803(5) defines "debt" as a consumer's monetary obligation "arising out of a transaction in which the money, property, insurance, or services (being purchased) are primarily for personal, family, or household purposes . . ."

1. *Examples.* The term includes:

• Overdue obligations such as medical bills that were originally payable in full within a certain time period (e.g., 30 days).

• A dishonored check that was tendered in payment for goods or services acquired or used primarily for personal, family, or household purposes.

2. *Exclusions.* The term does not include:

• Unpaid taxes and fines, because they are not debts incurred from a "transaction (involving purchase of) property . . . or services . . . for personal, family or household purposes."

• A credit care that a cardholder retains after the card issuer has demanded its return. The cardholder's account balance is the debt.

Section 803(6) defines "debt collector" as a party "who uses any instrumentality of interstate commerce or the mails in [connection with] . . . any debt owed . . . another."

1. *Examples.* The term includes:

• Employees of a debt collection business, including a corporation, partnership, or other entity whose business is the collection of debts owed another.

• A management firm that regularly collects overdue rent on behalf of real estate owners, because it "regularly collects . . . debts owed or due another.

• A party based in the United States who collects debts owed by consumers residing outside the United States, because he "uses . . . the mails" in a collection business. The residence of the debtor is irrelevant.

• A firm that collects debts for a creditor solely by mechanical techniques, such as (1) placing phone calls with pre-recorded messages and recording consumer responses, or (2) making computer-generated mailings.

2. *Exclusions.* The term does not include:

• Any person who collects debts (or attempts to do so) only in isolated instances, because the definition includes only those who "regularly" collect debts.

• A credit card issuer that collects its cardholder's account, even when the account is based upon purchases from participating merchants, because the issuer is collecting its own debts, not those "owed or due another."

3. *Application of definition to creditor using another name.* Creditors are generally excluded from the definition of "debt collector" to the extent that they collect their own debts in their own name. However, the term specifically applies to "any creditor who, in the process of collecting his own debts, uses any name other than his own which would indicate that a third person is" involved in the collection.

A creditor is a debt collector for purposes of this Act if:

• He uses a name other than his own to collect his debts, including a fictitious name.

• His salaried attorney employees who collect debts use stationery that indicates the attorneys are employed by someone other than the creditor or are independent or separate from the creditor.

• He regularly collects debts for another creditor; however, he is a debt collector only for purposes of collecting these debts, not when he collects his own debt in his own name.

• The creditor's collection division is not clearly designatedas being affiliated with the creditor; however, the creditor is not a debt collector if the creditor's correspondence is clearly labeled as being from the "collection unit of the (creditor's name)," since the creditor is not using a "name other than his own" in that instance.

Relation to other sections. A creditor who is covered by the FDCPA because he uses a "name other than his own" also may violate § 807(14), which prohibits using a false business name. When he uses an attorney's name, he violates section 807(3).

4. *Specific exemptions from definition of debt collector.*

(a) *Creditor employees.* Section 803(6)(A) provides that "debt collector" does not include "any officer or employee of a creditor while, in the name of the creditor, collecting debts for such creditor."

The exemption includes a collection agency employee, who works for a creditor to collect in the creditor's name at the creditor's office under the creditor's supervision, because he has become the *de facto* employee of the creditor.

The exemption does not include a creditor's former employee who continues to collect accounts on the creditor's behalf, if he acts under his own name rather than the creditor's.

(b) *Creditor-controlled collector.* Section 803(6)(B) provides that "debt collector" does not include a party collecting for another, where they are both "related by common ownership or affiliated by corporate control, if the (party collects) only for persons to whom it is so related or affiliated and if the principal business of such person is not the collection of debts."

The exemption applies where the collector and creditor have "common ownership or . . . corporate control." For example, a company is exempt when it attempts to collect debts of another company after the two entities have merged.

The exemption does not apply to an entity whose principal activity is debt collection, even if it is under common ownership with a differently-named creditor and collects debts only for that party.

The exemption does not apply to a party related to a creditor if it also collects debts for others in addition to the related creditors.

(c) *State and federal officials.* Section 803(6)(C) provides that "debt collector" does not include any state or federal employee "to the extent that collecting or attempting to collect any debt is in the performance of his official duties."

The exemption applies only to such governmental employees in the performance of their "official duties" and, therefore, does not apply to an attorney employed by a county government who also collects bad checks for local merchants where that activity is outside his official duties.

(d) *Process servers.* Section 803(6)(D) provides that "debt collector" does not include "any person while serving or attempting to serve legal process on any other person in connection with the judicial enforcement of any debt."

The exemption covers marshals, sheriffs, and any other process servers while conducting their normal duties relating to serving legal papers.

(e) *Non-profit counselors.* Section 803(6)(E) provides that "debt collector" does not

include "any nonprofit organization which, at the request of consumers, performs bona fide consumer credit counseling and assists consumers in the liquidation of their debts by receiving payments from such consumers and distributing such amounts to creditors."

This exemption applies only to non-profit organizations; it does not apply to for-profit credit counseling services that accept fees from debtors and regularly transmit such funds to creditors.

(f) *Attorneys.* Section 803(6)(F) provides that "debt collector" does not include "any attorney-at-law collecting a debt as an attorney on behalf of and in the name of a client."

The exemption includes attorneys who collect debts in the course of providing professional legal services to either a creditor or debt collector.

The exemption includes an attorney's non-attorney employees only when they are participating in the provision of legal services by attorneys.

The exemption includes firms that are engaged primarily in the provision of professional legal services. For example, it includes a firm whose clientele includes merchants who expect their attorneys to handle delinquent accounts, among other legal chores (e.g., leases, licenses, contract negotiations).

The exemption does not include firms that are engaged primarily in the collection of debts rather than the provision of professional legal services, even if they are owned by attorneys. For example, firms that primarily collect debts and typically delegate primary or exclusive responsibility to their non-attorney employees to handle all aspects of collection work, such as evaluating consumer files, handling mail and telephone contracts, negotiating settlements, making payment arrangements and the like, are not within the exemption.

Whether or not an attorney or law firm is providing professional legal services to a creditor is a question of fact that will turn on a number of factors including the nature of the attorney-creditor relationship, the type and variety of legal work done by the attorney for the creditor, and the degree to which such work requires the unique exertise, training, and background of an attorney.

(g) *Miscellaneous.* Section 803(6)(G) provides that "debt collector" does n ot include collection activity by a party about a debt that "(i) is incidental to a bona fide fiduciary obligation or . . . escrow arrangement; (ii) . . . was originated by such person; (iii) . . . was n ot in default at the time it was obtained by such person; or (iv) (was) obtained by such person as a secured party in a commercial credit transaction involving the creditor."

The exemption (i) for bona fide fiduciary obligations or escrow arrangements applies to entities such as trust departments of banks, and escrow companies.

The exemption (ii) for a party that originated the debt applies to the original creditor collecting his own debts in his own name. It also applies when a creditor assigns a debt originally owed to him, but retains the authority to collect the obligation on behalf of the assignee to whom the debt becomes owed. For example, the exemption applies to a creditor who makes a mortgage or school loan and continues to handle the account after assigning it to a third party. However, it does not apply to a party that takes assignment of retail installment contracts from the original creditor and then reassigns them to another creditor but continues to collect the debt arising from the contracts, becaust the debt was not "originated by" the collector/first assignee.

The exception (iii) for debts not in default when obtained applies to parties such as mortgage service companies whose business is servicing current accounts.

The exemption (iv) for a secured party in a commercial transaction applies to a commercial lender who acquires a consumer account that was used as collateral, following default on a loan from the commercial lender to the original creditor.

Section 803(7) defines "location information" as "a consumer's place of abode and his telephone number at such place, or his place of employment."

This definition includes only residence, home phone number, and place of employment. It does not cover work phone numbers, names of supervisors and their telephone numbers, salaries or dates of paydays.

Section 803(8) defines "state" as "any State territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing."

Section 804—Acquisition of Location Information

Section 804 requires a debt collector, when communicating with third parties for the purpose of acquiring information about the consumer's location to "(1) identify himself, state that he is confirming or correcting location information concerning the consumer, and, only if expressly requested identify his employer," (2) not refer to the debt, (3) usually make only a single contact with each third party, (4) not communicate by post card, (5) not indicate the collection nature of his business purpose in any written communication, and (6) normally limit communications to the consumer's attorney, where the collector knows of the attorney.

1. *General.* Although the FDCPA generally protects the consumer's privacy by limiting debt collector communications about personal affairs to third parties, it recognizes the need for some third party contact by collectors to seek the whereabouts of the consumer.

2. *Identification of debt collector [section 804(1)].* An individual employed by a debt collector seeking location information must identify himself, but must not identify his employer unless asked. When asked, however, he must give the true and full name of the employer, to comply with this provision and avoid a violation of section 807(14).

An individual debt collector may use an alias if it is used consistently and if it does not interfere with another party's ability to identify him (e.g., the true identity can be ascertained from the employer).

3. *Referral to debt [section 804(2)].* A debt collector may not refer to the consumer's debt in any third party communication seeking location information, including those with other creditors.

4. *Reference to debt collector's business [section 804(5)].* A debt collector may not use his actual name in his letterhead or elsewhere in a written communication seeking location information, if the name indicates collection activity, such as a name containing the word "debt", "collector", or "collection."

5. *Communication with consumer's attorney [section 804(6)].* Once a debt collector learns a consumer is represented by an attorney, he must limit his request for location information to the attorney. [See also comments on section 805(a)(2)].

Section 805—Communication in Connection With Debt Collection

Section 805(a)—Communication with the consumer. Unless the consumer has consented or a court order permits, a debt collector may not communicate with a consumer to collect a debt (1) at any time or place which is unusual or known to be inconvenient to the consumer (8AM–9PM is presumed to be convenient), (2) where he knows the consumer is represented by an attorney with respect to the debt, or (3) at work if he knows the consumer's employer prohibits such contacts.

1. *Scope.* For purposes of this section, the term "communicate" is given its commonly accepted meaning. Thus, the section applies to contacts with the consumer related to the collection of the

debt, whether or not the debt is specifically mentioned.

2. *Inconvenient or unusual times or places [section 805(a)(1)].* A debt collector may not call the consumer at any time, or on any particular day, if he has credible information (from the consumer or elsewhere) that it is inconvenient. If the debt collector does not have such information, a call on Sunday is not *per se* illegal.

3. *Consumer represented by attorney [section 805(a)(2)].* If a debt collector learns that a consumer is represented by an attorney, even if not formally notified of this fact, the debt collector must contact only the attorney and must not contact the consumer.

A debt collector who knows a consumer is represented by an attorney with respect to a debt is not required to assume similar representation on other debts; however, if a consumer notifies the debt collector that the attorney has been retained to represent him for all current and future debts that may be placed with the debt collector, the debt collector must deal only with that attorney.

The creditor's knowledge that the consumer has an attorney is not automatically imputed to the debt collector.

4. *Calls at work [section 805(a)(3).* A debt collector may not call the consumer at work if he has reason to know the employer forbids such communication.

Section 805(b)—Communication with third parties. Unless the consumer consents, or a court order or § 804 permits, "or as reasonably necessary to effectuate a postjudgment judicial remedy," a debt collector "may not communicate, in connection with the collection of any debt, with any person other than the consumer, his attorney, a consumer reporting agency if otherwise permitted by law, the creditor, the attorney of the creditor, or the attorney of the debt collector."

1. *Consumer consent to the third party contact.* The consumer's consent need not be in writing. It may be presumed from circumstances, such as if a third party volunteers that a consumer has authorized him to pay the consumer's account. However, consent may not be inferred only from a consumer's reaction when the debt collector requests such consent.

2. *Location information.* Although a debt collector's search for information concerning the consumer's location (provided for in § 804) is expressly excepted from the ban on third party contacts, a debt collector may not call third parties under the pretense of gaining information already in his possession.

3. *Incidental contacts with telephone operator or telegraph clerk.* A debt collector may contact an employee of a telephone or telegraph company in order to contact the consumer, without violating the prohibition on communication to third parties, if the only information given is that necessary to enable the collector to transmit the message to, or make the contact with the consumer.

4. *Accessibility by third party.* A debt collector may not send a written message that is easily accessible to third parties. For example, he may not use a computerized billing statement that can be seen on the envelope itself.

A debt collector may use an "in care of" letter only if the consumer lives at, or accepts mail at, the other party's address.

A debt collector does not violate this provision when an eavesdropper overhears a conversation with the consumer, unless the debt collector has reason to anticipate the conversation will be overheard.

5. *Non-excepted parties.* A debt collector may contact only the parties specified in this section (consumer, creditor, a party's attorney, or credit bureau). For example, a collector may not contact a bank about a dishonored check, or (without the consumer's consent) make a report on a consumer to a non-profit counseling service.

6. *Judicial remedy.* The words "as reasonably necessary to effectuate a postjudgment judicial remedy" mean a communication necessary for execution or enforcement of the remedy. A debt collector may not send a copy of the judgment to an employer, except as part of a formal service of papers to achieve a garnishment or other remedy.

7. *Audits or inquiries.* A debt collector may disclose his files to a government official or an auditor, to respond to an inquiry or conduct an audit, because the disclosure would not be "in connection with the collection of any debt."

8. *Receipt to third party.* A debt collector does not violate this section when he gives a receipt to a consumer's friend or relative who makes a payment on a debt, as long as the collector does not convey information about the details of the debt to the payer.

Section 804(c)—Ceasing communication. Once a debt collector receives written notice from a consumer that he or she refuses to pay the debt or wants the collector to stop further collection efforts, the debt collector must cease any further communication with the consumer except "(1) to advise the consumer that the debt collector's further efforts are being terminated; (2) to notify the consumer that the debt collector or creditor may invoke specified remedies which are ordinarily invoked by such debt collector or creditor; or (3) where applicable, to notify the consumer that the debt collector or creditor intends to invoke a specified remedy."

1. *Scope.* For purposes of this section, the term "communicate" is given its commonly accepted meaning. Thus, the section applies to any contact with the consumer related to the collection the debt, whether or not the debt is specifically mentioned.

2. *Request for payment.* A debt collector's response to a "cease communication" notice from the consumer may not include a demand for payment, but is limited to the three statutory exceptions.

Section 805(d)—"consumer" definition. For Section 805 purposes, the term "consumer" includes the "consumer's spouse, parent (if the consumer is a minor), guardian, executor, or administrator."

1. *Broad "consumer" definition.* Because of the broad statutory definition of "consumer" for the purposes of this section, many of its protections extend to parties close to the consumer. For example, the debt collector may not call the consumer's spouse at work, or a time known to be an inconvenient time. Conversely, he may call the spouse (guardian, executor, etc.) whenever he could call the consumer.

Section 806—Harassment or Abuse

Section 806 prohibits a debt collector from any conduct that would "harass, oppress, or abuse any person in connection with the collection of a debt." It provides six examples of harassment or abuse.

1. *Scope.* Prohibited actions are not limited to the six subsections listed as examples of activities that violate this provision.

2. *Unnecessary calls to third parties.* A debt collector may not leave telephone messages with many different neighbors when the debt collector knows the consumer's name and telephone number and could have reached him directly.

3. *Multiple contacts with consumer.* A debt collector may not engage in repeated personal contacts with a consumer with such frequency as to harass him. For example, the debt collector may not follow the consumer, or contact him six times in one day. Subsection (5) deals specifically with harassment by multiple phone calls.

4. *Abusive conduct.* A debt collector may not pose a lengthy series of questions or comments to the consumer without giving the consumer a chance to reply. Subsection (2) deals specifically

with harassment involving obscene, profane, or abusive language.

Section 806(1) prohibits "the use or threat of use of violence or other criminal means to harm . . . any person."

1. *Implied threat.* A debt collector may violate this section by an implied threat of violence. For example, a debt collector may not pressure a consumer with statements such as "We're not playing around here—we can play tough" or "We're going to send somebody to collect for us one way or the other."

Section 806(2) prohibits the use of obscene, profane, or abusive language.

1. *Abusive langauge.* Abusive language includes religious slure, profanity, obscenity, calling the consumer a liar or a deadbeat, and the use of racial or sexual epithets.

Section 806(3) prohibits "the publication of a list of consumers who allegedly refuse to pay debts," except to report the items to a "consumer reporting agency," as defined in the Fair Credit Reporting Act.

Section 806(4) prohibits "the advertisement for sale of any debt to coerce payment of the debt."

1. *Shaming prohibited.* These provisions are designed to prohibit debt collectors from "shaming" a customer into payment, by publicizing the debt.

2. *Exchange of lists.* Debt collectors may not exchange lists of consumers who allegedly refuse to pay their debts.

3. *Informtion to creditor subscribers.* A debt collector may not distribute a list of alleged debtors to its creditor subscribers, because the statute permits it to provide such information only to consumer reporting agencies.

Section 806(5) prohibits contacting the consumer by telphone "repeatedly or continuously with intent to annoy, abuse, or harass any person at the called number."

1. *Multiple phone calls.* "Continuously" means making a series of telephone calls, one right after the other. "Repeatedly" means calling with excessive frequency, such as six phone calls in an hour.

Section 806(6) prohibits, except where section 804 applies, "the placement of telephone calls without meaningful disclosure of the caller's identify."

1. *Aliases.* A debt collector employee's use of an alias that permits identification of the debt collector (i.e., where he uses the alias consistently, and his true identify can be ascertained by contact with the employer) constitutes a "meaningful disclosure of the caller's identity."

2. *Identification of caller.* An individual debt collector must disclose his employer's identity, when contacting consumers or third parties permitted by section 805(b).

3. *Relation to other sections.* A debt collector who uses a false business name in a phone call to conceal his identity violates section 807 (14), as well as this section.

Section 807—False or misleading representation

Section 807 prohibits a debt collector from using any "false, deceptive, or misleading representation or means in connection with the collection of any debt." It provides sixteen examples of false or misleading representations.

1. *Scope.* Prohibited actions are not limited to the sixteen subsections listed as examples of activities that violate this provision. In addition, section 807(10), which prohibits the "use of any false representation or deceptive means" by a debt collector, is particularly broad and encompasses virtually every violation, including those not covered by the other subsections.

Section 807(1) prohibits "the false representation or implication that the debt collector is vouched for, bonded by, or affiliated with the Untied States or any State . . . "

1. *Symbol on dunning notice.* A debt collector may not use a symbol in correspondence that make him appear to be a government official. For example, a collection letter depicting a police badge, a judge, or the scales of justice, violates this section.

Section 807(2) prohibits falsely representing either "(A) the character, amount, or legal status of any debt; or (B) any services rendered or compensation which may be lawfully received by" the collector.

1. *Legal status of debt.* A debt collector may not falsely imply that legal action has begun.

2. *Amount of debt.* A debt collector may not claim an amount more than actually owed, or falsely assert that the debt has matured or that it is immediately due and payable, when it is not.

3 *Judgment.* When a debt collector provides the validation notice required by section 809(a)(4), the notice may include the words "copy of a judgment" whether or not a judgment exists, because section 809(a)(4) provides for a statement including these words. This information avoids making compliance with section 809(a)(4) a violation of section 807(2)(A)

Section 807(3) prohibits falsely representing or implying that "any individual is an attorney or that any communication is from an attorney."

1. *Form of legal correspondence.* A debt collector may not send a collection letter from a "pre-Legal department," where no legal department exists. An attorney may use a computer service to send letters on his own behalf, but a debt collector may not send a computer-generated letter using an attorney's name.

2. *Names individual.* A debt collector may not falsely represent that a person named in a letter is his attorney.

3. *Relation to other sections.* If a creditor uses an attorney's name rather than his own in his collection communications, he both loses his exemption from the FDCPA's definition of "debt collector" (section 803(6)) and violates this provision.

Section 807(4) prohibits falsely representing or implying to the consumer that nonpayment "will result in the arrest or imprisonment of any person or the seizure, garnishment, attachment, or sale of any property or wages of any person . . ."

Section 807(5) prohibits "the threat to take any action that cannot legally be taken or that is not intended to be taken."

1. *Debt collector's statement of his own definite action.* A debt collector may not state that he will take any action unless he intends to take the action when the statement was made, or ordinarly takes the action in similar circumstances.

2. *Debt collector's statement of definite action by third party.* A debt collector may not state that a third party will take any action unless he has reason to believe, at the time the statement is made, that such action will be taken.

3. *Statement of possible action.* A debt collector may not state or imply that he or any third party may take any action unless such action is legal and there is a reasonable likelihood, at the time the statement is made, that such action will be taken. A debt collector may state that certain action is possible, if it is true that such action is legal and is frequently taken by the collector or creditor with respect to similar debts; however, if the creditor has reason to know there are facts that make the action unlikely in the particular case, a statement the action was possible would be misleading.

4. *Threat of criminal action.* A debt collector may not threaten to report a dishonored check or other fact to the police, unless he actually intends to take this action.

5. *Threat of attachment.* A debt collector may not threaten to attach a consumer's tax refund, when he has no authority to do so.

6. *Threat of legal or other action.* Section 807(5) refers not only to a false threat of legal action, but also a false

threat by a debt collector that he will report a debt to a credit bureau, assess a collection fee, or undertake any other action if the debt is not paid. A debt collector may also not misrepresent the imminence of such action.

A debt collector's implication, as well as a direct statement, of planned legal action may be an unlawful deception. For example, reference to an attorney or to legal proceedings may mislead the debtor as to the likelihood or imminence of legal action.

A debt collector's statement that legal action has been recommended is a representation that legal action may be taken, since such a recommendation implies that the creditor will act on it at least some of the time.

Lack of intent may be inferred when the amount of the debt is so small as to make the action totally unfeasible or when the debt collector is unable to take the action because the creditor has not authorized him to do so.

7. *Illegality of threatened act.* A debt collector may not threaten that he will illegally contact an employer, or other third party, or take some other "action that cannot legally be taken" (such as advising the creditor to sue where such advice would violate state rules governing the unauthorized practice of law). If state law forbids a debt collector from suing in his own name (or from doing so without first obtaining a formal assignment and that has not been done), the debt collector may not represent that he will sue in that state.

Section 807(6) prohibits falsely representing or implying that a transfer of the debt will cause the consumer to (A) lose any claim or defense, or (B) become subject to any practice prohibited by the FDCPA.

1. *Referral to creditor.* A debt collector may not falsely state that the consumer's account will be referred back to the original creditor, who would not be bound by the FDCPA.

Section 807(7) prohibits falsely representing or implying that the "consumer committed any crime or other (disgraceful) conduct."

1. *False allegation of fraud.* A debt collector may not falsely allege that the consumer has committed fraud.

2. *Misrepresentation of criminal law.* A debt collector may not make a misleading statement of law, falsely implying that the consumer has committed a crime, or mischaracterize what constitutes an offense by misstating or omitting significant elements of the offense. For example, a debt collector may not tell the consumer that he has committed a crime by issuing a check that is dishonored, when the statute applies only where there is a "scheme to defraud."

Section 807(8) prohibits "communicating or threatening to communicate to any person (false) credit information . . . , including the failure to commuicate that a disputed debt is disputed."

1. *Disputed debt.* If a debt collector knows that a debt is disputed by the consumer, either from receipt of written notice (§ 809) or other means, and reports it to a credit bureau, he must report it as disputed.

2. *Post-report dispute.* When a debt collector learns of a dispute after reporting the debt to a credit bureau, the dispute need not also be reported.

Section 807(9) prohibits "the use of any document designed to falsely imply that it issued from a state or federal source.

1. *Relation to other sections.* Most of the violations of this section involve simulated legal process, which is more specifically covered by § 807(13). However, this subsection is broader in that it also covers documents that fraudulently appear to be official government documents.

Section 807(10) prohibits "the use of any false representation or deceptive means to collect or attempt to collect any debt or to obtain information concerning a consumer."

1. *Relation to other sections.* The prohibition is so comprehensive that violation of any part of § 807 will usually also violate subsection (10). Actions that violate more specific provisions are discussed in those sections.

2. *Communcation format.* A debt collector may not communicate by a format or envelope that misrepresents the nature, purpose, or urgency of the message. It is a violation to send any communication that conveys to the consumer a false sense of urgency. However, it is usually permissible to send a letter generated by a machine, such as a computer or other printing device. A bona fide contest entry form, which provides a clearly optional location to enter employment information, enclosed with a request for payment, is not deceptive.

3. *False statement or implications.* A debt collector may not falsely state or imply that a consumer is required to assign his wages to his creditor when he is not, that the debt collector has counseled the creditor to sue when he has not, that adverse credit information has been entered on the consumer's credit record when it has not, that the entire amount is due when there is no acceleration clause, or that he cannot accept partial payments when in fact he is authorized to accept them.

4. *Misrepresentation of law.* A debt collector may not mislead the consumer as to the legal consequences of the consumer's action (e.g., by implying that a failure to respond is an admission of liability).

A debt collector may not state that federal law requires a notice of the debt collector's intent to contact third parties.

5. *Misleading letterhead.* A debt collector's employee who is an attorney may not use "attorney-at-law" stationery without referring to his employer, so as to falsely imply to the consumer that the debt collector had retained a private attorney to bring suit on the account.

Section 807(11) requires the debt collector to "disclose clearly in all communications made to collect a debt or to obtain information about a consumer, that the debt collector is attempting to collect a debt and that any information obtained will be used for that purpose," except where section 804 provides otherwise.

1. *Oral communications.* A debt collector must make the required disclosures in both oral and written communications.

2. *Disclosure to consumers.* When a debt collector contacts a consumer and clearly discloses that he is seeking payment of a debt, he need not state that all information will be used to collect a debt, since that should be apparent to the consumer. The debt collector need not repeat the required disclosure in subsequent contacts.

A debt collector may not send the consumer a note saying only "please call me right away" unless there has been prior contact between the parties and the collector is thus known to the consumer.

3. *Disclosures to third parties.* The debt collector must state in his first communication with a third party that he is attempting to collect the debt and that information will be used for that purpose, but need not do so in subsequent communications with that party.

Section 807(12) prohibits falsely representing or implying that "accounts have been turned over to innocent purchasers for value."

1. *Relation to other sections.* Section 807(6)(A) prohibits threatening to affect the consumer's rights by transferring the account; this subsection forbids falsely stating or implying that this has been done.

Section 807(13) prohibits falsely representing or implying that "documents are legal process."

1. *Simulated legal process.* A debt collector may not send written communications that deceptively resemble legal process forms. He may not send a form or a dunning letter that

taken as a whole, appears to simulate legal process. However, one legal phrase (such as "notice of legal action" or "show just cause why") alone will not result in a violation of this section unless it contributes to an erroneous impression that the document is a legal form.

Section 807(14) prohibits "the use of any business, company, or organization name other than the (collector's) true name."

1. *Permissible business name.* A debt collector may use a name that does not misrepresent his identity or deceive the consumer. Thus, a collector may use its full business name, the name under which it usually transacts business, or a commonly used acronym. When the collector uses multiple names in its various affairs, it does not violate this subsection if it consistently uses the same name when dealing with a particular consumer.

2. *Creditor misrepresentation of identity.* A creditor may not use any name that would falsely imply that a third party is involved in the collection. The in-house collection unit of "ABC Corp." may use the name "ABC Collection Division," but not the name "XYZ Collection Agency" or some other unrelated name.

A creditor violates this section if he uses the name of a collection bureau as a conduit for a collection process that the creditor controls in collecting his own accounts. Similarly, a creditor may not use a fictitious name or letterhead, or a "post office box address" name that implies someone else is collecting his debts.

A creditor does not violates this provision where an affiliated (and differently named) debt collector undertakes collection activity, if the debt collector does business separately from the creditor (e.g., where the debt collector in fact has other clients that he treats similarly to the creditor, has his own employees, deals at arms length with the creditor, and controls the process himself).

3. *All collection activities covered.* A debt collection business must use its real business name, commonly-used name, or acronym in both written and oral communications.

4. *Relation to other sections.* If a creditor uses a false business name, he both loses his exemption from the FDCPA's definition of "debt collector" [§ 803(6)] and violates this provision. If a debt collector falsely uses the name of an attorney rather than his true business name, he violates section 807(3) as well as this section. When a debt collector uses a fasle business name in a phone call, he violates section 806(6) as well as this section.

When using the mails to obtain location information, a debt collector may not use a name that indicates he is in the debt collection business, or he will violate § 804(5). When a debt collector's employee who is seeking location information replies to an inquiry about his employer's identity under § 804(1), he must give the true name of his employer.

Section 807(15) prohibits falsely representing or implying that documents are not legal process forms or do not require action by the consumer.

1. *Disguised legal process.* A debt collector may not deceive a consumer into failing to respond to legal process by concealing the import of the papers, thereby subjecting the consumer to a default judgment.

Section 807(16) prohibits falsely representing or implying that a debt collector operates or is employed by a "consumer reporting agency," as defined in the Fair Credit Reporting Act.

1. *Dual agencies.* The FDCPA does not prohibit a debt collector from operating a consumer reporting agency.

2. *Misleading names.* Only a bona fide consumer reporting agency may use names such as "Credit Bureau," "Credit Bureau Collection Agency," "General Credit Control," "Credit Bureau Rating, Inc.," or "National Debtors Rating." A debt collector's disclaimer in the text of a letter that the debt collector is not affiliated with (or employed by) a consumer reporting agency, will not necessarily avoid a violation if the collector uses a name that indicates otherwise.

3. *Factual issue.* Whether a debt collector that has called itself a credit bureau actually qualifies as such is a factual issue, to be decided according to the debt collector's actual operation.

Section 808—Unfair Practices

Section 800 prohibits a debt collector from using "unfair or unconscionable means" in his debt collection activity. It provides eight examples of unfair practices.

1. *Scope.* Prohibited actions are not limited to the eight subsections listed as examples of activities that violate this provision.

2. *Elements of unfairness.* A debt collector's act in collecting a debt is "unfair" if it causes injury to the consumer that is (1) substantial, (2) not outweighed by countervailing benefits to consumers or competition, and (3) not reasonably avoidable.

Section 808(1) prohibits collecting any amount unless the amount is expressly authorized by the agreement creating the debt or is permitted by law.

1. *Kinds of amounts covered.* For purposes of this section, "amount" includes not only the debt, but also any incidential charges, such as collection charges, interest, service charges, late fees, and bad check handling charges.

2. *Legality of charges.* A debt collector may attempt to collect a fee for charge in addition to the debt if either (A) the charge is expressly provided for in the contract creating the debt and the charge is not prohibited by state law, or (B) the contract is silent but the charge is otherwise expressly permitted by state law. Conversely, a debt collector may not collect an additional amount if either (A) state law expressly prohibits collection of the amount or (B) the contract does not provide for collection of the amount and state law is silent.

3. *Legality of fee under state law.* If state law permits collection of reasonable fees, the reasonableness and consequential legality of these fees is determined by state law.

4. *Agreement not in writing.* A debt collector may establish an "agreement" without a written contract. For example, he may collect a service charge on a dishonored check based on a posted sign on the merchant's premises allowing such a charge, if he can demonstrate that the consumer knew of the charge.

Section 808(2) prohibits accepting a check postdated by more than five days unless timely written notice is given to the consumer prior to deposit.

Section 808(3) prohibits soliciting any postdated check for purposes of threatening or instituting criminal prosecution.

Section 808(4) prohibits depositing a postdated check prior to its date.

1. *Postdated checks.* These provisions do not totally prohibit debt collectors from accepting postdated checks from consumers, but rather prohibit debt collectors from misusing such instruments.

Section 808(5) prohibits causing any person to incur telephone or telegram charges by concealing the true purpose of the communication.

1. *Long distance calls to the debt collector.* A debt collector may not ask a consumer to call him long distance without disclosing the debt collector's identity and the communication's purpose.

2. *Relation to other section.* A debt collector who conceals his purpose in asking consumers to call long distance may also violate section 807(11), which requires the debt collector to disclose his purpose in some communications.

Section 808(6) prohibits enforcing a security interest on property, or threatening to do so, where (A) there is not present right to the collateral, (B) there is no present intent to exercise such rights, or (C) the property is exempt by law.

1. *Security enforcers.* Because the FDCPA's definition of "debt collector" includes parties whose principal business is enforcing security interests only for § 808(6) purposes, such parties are subject only to this provision and not to the rest of the FDCPA.

Section 808(7) prohibits "Communicating with a consumer regarding a debt by post card."

1. *Debt.* A debt collector does not violate this section if he sends a postcard to a consumer that does not communicate the existence of the debt. However, if he had not previously disclosed that he is attempting to collect a debt, he would violate Section 807(11), which requires this disclosure.

Section 808(8) prohibits showing anything other than the debt collector's address, on any envelope on any written communication to the consumer, except that a debt collector may use his business name if it does not indicate that he is in the debt collection business.

1. *Business names prohibited on envelopes.* A debt collector may not put on his envelope any business name with "debt" or "collector" in it, or any other name that indicates he is in the debt collection business. A debt collector may not use the American Collectors Association logo on an envelope.

2. *Collector's name.* Whether a debt collector/consumer reporting agency's use of his own "credit bureau" or other name indicates that he is in the collection business, and thus violates the section, is a factual issue to be determined in each individual case.

3. *Telegrams.* A debt collector does not violate this section by using an actual telegram or similar service, notwithstanding a Western Union (or other provider) logo and the word "telegram" (or similar word) on the envelope.

4. *Transparent envelopes.* A debt collector may not use a transparent envelope, which reveals language or symbols indicating his debt collection business, because it is the equivalent of putting information on an envelope.

Section 809—Validation of Debts

Section 809(a) requires a collector, within 5 days of the first communication, to send the consumer a written notice containing (1) the amount of the debt and (2) the name of the creditor, along with a statement that he will (3) assume the debt's validity unless the consumer disputes it within 30 days, (4) send a verification or copy of the judgment if the consumer timely disputes the debt, and (5) identify the original creditor upon written request.

1. *Who must send notice.* If the employer debt collection agency sends the required notice, employee debt collectors need not also send it. A debt collector's agent may send the notice, as long as it is clear that the information is being sent on behalf of the debt collector.

2. *Single notice required.* The debt collector is required to send only one notice for each debt. A notice need not offer to identify the original creditor unelss the name and address of the original creditor are different from the current creditor.

3. *Form of notices.* The FDCPA imposes no requirements as to the form, sequence, location, or typesize of the notice. However, an illegible notice does not comply with this provision.

4. *Alternate terminology.* A debt collector may condense and combine the required disclosures, as long as he provides all required information.

5. *Oral notice.* If a debt collector's first communication with the consumer is oral, he may make the disclosures orally at that time in which case he need not send a written notice.

6. *Legal action.* A debt collector's institution of formal legal action against a consumer is not a "communication in connection with collection of any debt," and thus does not confer section 809 notice-and-validation rights on the consumer.

Section 809(b) requires that, if the consumer disputes the debt or requests identification of the original creditor in writing, the collector must cease collection efforts until he verifies the debt and mails a response. Section 809(c) states that a consumer's failure to dispute the validity of a debt under this section is not an admission of liability.

1. *Pre-notice collection.* A debt collector need not cease normal collection activities within the consumer's 30-day period to give notice of a dispute until he receives a notice from the consumer.

A debt collector may report a debt to a credit bureau within the 30-day notice period, before he receives a request for validation or a dispute notice from the consumer.

Section 810—Multiple Debts

Section 810 provides that when a debt collector is collecting multiple debts and the consumer directs that a payment be applied to a certain debt or debts, the debt collector must honor those directions. A debt collector may not apply a payment to a disputed debt even if the consumer gives no direction in this regard.

Section 811—Legal Actions by Debt collectors

Section 811 provides that a debt collector may sue a consumer only in the judicial district where the consumer resides or signed the contract sued upon, except that an action to enforce a security interest in real property which secures the obligation must be brought where the property is located.

1. *Waiver.* Any waiver by the consumer must be provided to the debt collector, because the forum restriction applies to actions initiated by that party.

2. *Multiple defendants.* Since a debt collector may sue only where the consumer (1) lives or (2) signed the contract, the collector may not join an ex-husband as a defendant to a suit against the ex-wife in the district of her residence, unless he also lived there or signed the contract there. The existence of community property at her residence that is available to pay his debts does not alter the forum limitations on individual consumers.

3. *Real estate security.* A debt collector may sue based on the location of a consumer's real property only when he seeks to enforce an interest in such property that secures the debts.

4. *Services without written contract.* Where services were provided pursuant to an oral agreement, the debt collector may sue only where the consumer resides. He may not sue where services were perfomed (if that is different from the consumer's residence), because that is not included as a permissible forum location by this provision.

Section 812—Furnishing Certain Deceptive Forms

Section 812(a) prohibits any party from designing and furnishing forms, knowing they are or will be used to deceive a consumer to believe that someone other than his creditor is collecting the debt, and imposes FDCPA civil liability on parties who supply such forms.

Practice prohibited. This section prohibits the practice of selling to creditors dunning letters that falsely imply that a debt collector is collecting the debt, when in fact only the creditor is collecting.

2. *Coverage.* This section applies to anyone who designs, compiles, or furnishes the forms prohibited by this section.

3. *Pre-collection letters.* A form seller may not furnish a creditor with (1) a letter on a collector's letterhead to be used when the collector is not involved in collecting the creditor's debts, or (2) a letter indicating "copy to (the collector)" if the collector is not participating in collecting the creditor's debt. A form seller may not avoid liability by

including a statement in the text of a form letter that the sender has not yet been assigned the account for collection, if the communication as a whole, using the collector's letterhead, represents otherwise.

4. *Knowledge rquired.* A party does not violate this provision unless he has knowledge that his form letter will be used to mislead consumers into believing that someone other than the creditor is involved in collecting the debt.

5. *Participation by debt collector.* A debt collector that uses letters as his only collection tool does not violate this section, merely because he charges a flat rate per letter, if he is meaningfully "participating in the collection of a debt." The consumer is not misled in such cases, as he would be in the case of a party who supplied the creditor with form letters and provided little or no additional service in the collection process. The performance of other tasks associated with collection (e.g., handling verification requests, negotiating payment arrangements keeping individual records) is evidence that such a party is "participating in the collection."

Section 813—Civil Liability

Section 813 (A) imposes civil liability in the form of (1) actual damages, (2) discretionary penalties, and (3) costs and attorney's fees. (B) discusses relevant factors a court should consider in assessing damages. (C) exculpates a collector who maintains reasonable procedures form liability for an unintentional error. (D) permits actions to be brought in federal or state courts within one year from the violation, and (E) shields a defendant who relies on an advisory opinion of the Commission.

1. *Employee liability.* Since the employees of a debt collection agency are "debt collectors," they are liable for violations to the same extent as the agency.

2. *Damages.* The courts have awarded "actual damages" for FDCPA violations that were not just out-of-pocket expenses, but included damages for personal humiliation, embarrassment, mental anguish, or emotional distress.

3. *Application of statute of limitation period.* The section's one year statute of limitations applies only to private lawsuits, not to actions brought by a government agency.

4. *Advisory opinions.* A party may act in reliance on a formal advisory opinion of the Commission pursuant to 16 CFR §§ 1.1–1.4, without risk of civil liability. This protection does not extend to reliance on this Commentary or other informal staff interpretations.

Section 814—Administrative Enforcement

Section 814 provides that the principal federal enforcement agency for the FDCPA is the Federal Trade Commission, but assigns that power to other authorities empowered by certain federal statutes to regulate financial, agricultural, and transportation activities, where FDCPA violations relate to acts subject to those laws.

Section 815—Reports to Congress by Commission

Section 815 requires the Commission to submit an annual report to Congress which discusses its enforcement and other activities administering the FDCPA, assesses the degree of compliance, and makes recommendations.

Section 816—Relation to State laws

Section 816 provides that the FDCPA pre-empts state laws only to the extent that those laws are inconsistent with any provision of the FDCPA, and then only to the extent of the inconsistency. A State law is not inconsistent if it gives consumers greater protection than the FDCPA.

1. *Inconsistent laws.* Where a state law provides protection to the consumer equal to, or greater than, the FDCPA, it is not pre-empted by the federal statute.

Section 817—Exemption for State Regulation

Section 817 orders the Commission to exempt any class of debt collection practices from the FDCPA within any State if it determines that State laws regulating those practices are substantially similar to the FDCPA, and contain adequate provision for enforcement.

1. *State exemptions.* A state with a debt collection law may apply to the Commission for an exemption. The Commission must grant the exemption if the state's law is substantially similar to the FDCPA, and there is adequate provision for enforcement. The Commission has published procedures for processing such applications (16 CFR 901).

Section 818—Effective Date

Section 818 provides that the FDCPA took effect six months from the date of its enactment.

1. *Key dates.* The FDCPA was approved September 20, 1977, and became effective March 20, 1978.

[FR Doc. 86–4846 Filed 3–6–86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Agency Forms Submitted to the Office of Management and Budget for Clearance

Each Friday the Department of Health and Human Services (HHS) publishes a list of information collection packages it has submitted to the Office of Management and Budget (OMB) for clearance in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). The following are those packages submitted to OMB since the last list was published on February 28, 1986

Social Security Administration

Subject: Statement for Determining Continuing Eligibility for Supplemental Security Income Payments—Revision—(0960–0131)
Respondents: Individuals or households

Subject: Chinese Custom Marriage Statement and Statement Regarding Chinese Custom Marriage—Revision—(0960–0086)
Respondents: Individuals or households
OMB Desk Officer: Judy A. McIntosh.

PUBLIC HEALTH SERVICE

Food and Drug Administration

Subject: Medical Device Reporting—Revision—(0910–0201)
Respondents: Medical Device Manufacturers
OMB Desk Officer: Bruce Artim.

Copies of the above information collection clearance packages can be obtained by calling the HHS Reports Clearance Officer on 202–245–6511.

Written comments and recommendations for the proposed information collections should be sent directly to the appropriate OMB Desk Officer designated above at the following address: OMB Reports Management Branch, New Executive Office Building, Room 3208, Washington, DC 20503, Attn: [name of OMB Desk Officer].

Dated: February 28, 1986.

K. Jacqueline Holz,

Deputy Assistant Secretary for Management Analysis and Systems.

[FR Doc. 86–5063 Filed 3–6–86; 8:45 am]

BILLING CODE 4150-04-M

Alcohol, Drug Abuse, and Mental Health Administration Request for Nominations for Members of the National Institute of Mental Health Initial Review Committees

AGENCY: Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA).

ACTION: Request for nominations for members of the National Institute of Mental Health initial review committees.

SUMMARY: This notice is to advise interested parties that the National Institute of Mental Health (NIMH) invites nominations for membership on its initial review committees. The initial review committees provide technical and scientific merit review of grant applications and contract proposals.

The primary requirement for serving on a scientific review group is competence as an independent investigator in a basic scientific or clinical discipline or research specialty. Assessment of such competence is based on the quality of research accomplished, publications in referred scientific journals, and other significant scientific activities, achievements, and honors. Usually a doctoral degree or its equivalent is required. Service also requires mature judgment, balanced perspective, objectivity, ability to work effectively in a group context, commitment to complete work assignments, and assurance that the confidentiality of applications will be protected.

Any person may nominate one or more qualified candidates for consideration on one or more specific committees. Self nominations are accepted. NIMH has a special interest in assuring that women and ethnic minority scientists are adequately represented on advisory committees and, therefore, encourages their nomination. Nominations must be received by April 1, 1986. Submit a curriculum vita for each nominee which includes a complete mailing address. The nominee must be aware of the nomination and be willing to serve. Nominations should be sent to the Committee Management Officer, NIMH, at the address below.

Although the NIMH will carefully consider all nominations, it reserves the right to make final selections.

FOR FURTHER INFORMATION CONTACT: Additional information about the functions of each committee and the expertise required may be obtained from Helen Garrett, Committee Management Officer NIMH, Parklawn Building, Room 9–94, 5600 Fishers Lane, Rockville, MD 20857.

SUPPLEMENTARY INFORMATION: Initial review committees for which nominations will be considered are listed below:

Basic Behavioral Processes Research Review Committee
Cognition, Emotion, and Personality Research Review Committee
Criminal and Violent Behavior Research Review Committee
Epidemiologic and Services Research Review Committee
Life Course and Prevention Research Review Committee
Mental Health Behavioral Sciences Research Review Committee
Mental Health Research Education Review Committee
Mental Health Small Grant Review Committee
Neurosciences Research Review Committee
Psychopathology and Clinical Biology Research Review Committee
Research Scientist Development Review Committee
Treatment Development and Assessment Research Review Committee.

Dated: March 4, 1985.

Brenda L. Williamson,

Acting Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc. 86–5026 Filed 3–6–86; 8:45 am]

BILLING CODE 4160-20-M

Centers for Disease Control

Cooperative Agreement for a Project To Assess Fertility and Family Planning in Puerto Rico; Availability of Funds for Fiscal Year 1986

The Centers for Disease Control (CDC) announces the availability of funds for Fiscal Year 1986 to continue a cooperative agreement with the University of Puerto Rico School of Public Health to assess the fertility and family planning of reproductive aged women in Puerto Rico. The Catalog of Federal Domestic Assistance Number is 13.283.

Request for Application Not Available

This is not a formal request for application and other applications will not be accepted.

Avaiability of Funds

It is expected that approximately $38,000 will be available in Fiscal Year 1986 to fund this cooperative agreement. The award will be funded for 12-month budget and project period.

Authority

This program is authorized under section 301 of the Public Health Service Act, as amended. Regulations applicable to this program are in Title 42 of the Code of Federal Regulations, Part 52.

Information

FOR FURTHER INFORMATION CONTACT: Luther E. DeWeese, Grants Management Specialist, Grants Management Branch, Procurement and Grants Office, Centers for Disease Control, 255 Paces Ferry Road, NE., Room 321, Atlanta, Georgia 30305, Telephone Number (404) 262–6275 or FTS 236–6575.

Dated: February 28, 1986.

William E. Muldoon,

Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 86–4999 Filed 3–6–86; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 85N–0569]

Study of Certain Effects of Sugar Alcohols and Lactose Observed in Animal Experiments; Request for Additional Information; Meeting of Ad Hoc Expert Panel

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Ad Hoc Expert Panel on Sugar Alcohols and Lactose (the Expert Panel), which was formed by the Life Sciences Research Office of the Federation of American Societies for Experimental Biology (FASEB) under a contract with FDA, will hold an open meeting. The purpose of this meeting is to obtain scientific data and information on the effects of sugar alcohols and lactose that have been observed in animal experiments. The questions that have been posed to FASEB by FDA, and that will be considered by the Expert Panel, are set forth in this notice. The Expert Panel will meet in closed executive session after the open meeting, on April 8 and 9, 1986, and on June 23 and 24, 1986, to discuss this subject.

DATES: The open meeting will be held on Monday, April 7, 1986, at 9 a.m. As stated at 51 FR 2577 (January 17, 1986), relevant scientific data and information may be submitted until March 15, 1986. Requests to make oral presentations at the open meeting must be in writing, be postmarked before March 15, 1986, and be received by March 22, 1986. The executive session will be held following

the open meeting on April 7, 1986, resume at 9 a.m. on April 8, 1986, and conclude on April 9, 1986. The Expert Panel will also meet in executive session on June 23 and June 24, 1986, at 9 a.m.

ADDRESS: The open and executive session meetings will be held in the Milton O. Lee Bldg. at FASEB, 9650 Rockville Pike, Bethesda, MD 20814.

FOR FURTHER INFORMATION CONTACT:

F.R. Senti, Life Sciences Research Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814, 301–530–7030

or

Lester Borodinsky, Center for Food Safety and Applied Nutrition (HFF–334), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–426–8950.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of January 17, 1986 (51 FR 2577), FDA announced that FASEB, under its contract with FDA (No. 223–83–2020), is conducting a study, by means of the Expert Panel, of certain effects that have been observed in animal experiments in which the animals were fed sugar alcohols or lactose. (For complete information about this study, see 51 FR 2577). The notice advised that an open meeting of the Expert Panel would be announced in the **Federal Register**. The open meeting has now been scheduled and will be held on April 7, 1986, at the address given above. The Expert Panel will also meet at the same location in a closed executive session after the open meeting and on April 8 and 9, 1986, and on June 23 and 24, 1986, to discuss this subject.

The Expert Panel is conducting the open meeting to receive all relevant information on the following questions, which have been posed by FDA:

A. Questions Related to Sugar Alcohols and Adrenals

1. Are adrenal hyperplasia and pheochromocytoma characteristic responses of certain strains of rats to being fed high levels of sugar alcohols?

2. Do the lesions seen in the rat adrenal correlate physiologically or biochemically to adrenal lesions occurring in humans?

3. Is there a mechanistic explanation for the occurrence of the lesion in rats?

4. If the answer to question 3 is yes, is there evidence that this mechanism operates in the rat only? In other species?

B. Questions Specific to Xylitol and Mouse Bladder

1. Is there a physiologic or biochemical explanation for the occurrence of oxalate crystals in the bladder of mice fed high levels of xylitol?

2. Is there, in general, a correlation between bladder crystals (stones) and hyperplastic changes in bladder epithelium of rodents?

3. Is the urinary stone formation a reasonable explanation for the occurrence of bladder tumors in mice fed high levels of xylitol?

C. Questions Specific to Xylitol and Dog Liver

1. Are the physiological responses of the dog to high levels of xylitol different from those of other species?

2. If there are differences, are they sufficient to explain the liver histopathology as well as the clinical and biochemical changes noted in dogs fed high levels of xylitol?

3. Would the responses in dogs be sufficiently unique so as to expect that they would not be significant for humans?

D. Questions Specific to Lactitol and Lactose

1. Was there or is there now any information to suggest that lactitol or lactose would have induced testicular tumors in rats fed diets containing 10 percent lactitol or lactose?

2. Is there a mechanistic explanation for the occurrence of these lesions in rats?

3. What is the relevance of this lesion to humans?

4. Can lactose as it occurs in milk be considered differently from a toxicologic point of view than lactose as a generally recognized as safe substance in foods?

The conference room in which the open meeting will be held has limited seating. Advance registration is strongly encouraged (contact F.R. Senti—address above). Additionally, because parking space is limited, use of public transportation is encouraged.

The Expert Panel meetings are being announced as required by 21 CFR 14.15(b)(1).

Dated: March 5, 1986.

Adam J. Trujillo,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–5081 Filed 3–5–86; 10:06 am]

BILLING CODE 4160–01–M

Food and Drug Administration; Statement of Organization, Functions, and Delegations of Authority

Part H., Chapter HF (Food and Drug Administration) of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services (35 FR 3685, February 25, 1970, as amended most recently in pertinent parts at 43 FR 16418, April 18, 1978; 47 FR 46142, October 15, 1982; and 50 FR 34759, August 27, 1985;) is amended to reflect the insertion of additional organizational functional statements.

Public Health Service (PHS) organizational guidelines, require that functional statements for oganizations that report directly to an Associate Commissioner or Center Director be published in the **Federal Register.**

Therefore, the Food and Drug Administration is publishing functional statements for staffs in the Office of Planning and Evaluation, the Office of Legislative Affairs, Office of Public Affairs, and the Office of Health Affairs.

Section HF–B, Organization and Functions is amended as follows:

1. Following paragraph (b) Office of Planning and Evaluation (HFAA) insert new subparagraphs (b–1) through (b–3) reading as follows:

(b–1) *Planning and Management Communications Staff (HFAA3).* Directs the agency long-range planning process, including strategic and program planning, and coordinates it with the HHS long-range planning process.

Prepares the FDA Forward Plan and Annual Report.

Assists and consults with agency components in their planning.

Analyzes base line data and determines importance of external factors, including consumer safety and regulatory expectations, which affect the agency.

Consults with and supports the Office of Management and Operations in preparation of the agency budget; consults with and supports the Office of Legislative Affairs in the preparation of legislative proposals.

Conducts special planning-related studies and critiques as requested.

Coordinates the agency functional (regulatory, research, etc.) planning processes and supports agency staff units in planning design, preparation, coordination, and execution.

Represents the agency in Department planning activities.

Conducts analysis of resource requests submitted by agency components in order to develop resource recommendations for the Commissioner,

to support the planning process, and to fulfill PHS and HHS requirements.

Designs and operates management communications systems.

Coordinates and presents an annual regulatory development plan.

Conducts the agency manpower management system.

(b–2) *Evaluation and Analysis Staff (HFAA4).* Performs agency program and policy evaluations. Recommend alternative courses of action to increase effectiveness of agency allocation of resources and to improve program and project performance.

Performs analyses of significantly broad agency issues identified in the planning process. Recommends and/or implements steps to resolve these issues.

Assures that appropriate program evaluation activities are taken in agency components. Monitors and coordinates these efforts to assure uniqueness and a contribution to agency program goals.

Develops the annual evaluation plan for the agency and coordinates with PHS/HHS.

Conducts special evaluation and economic-related studies in support of agency policy development and in resolution of broad agency problems.

Evaluates impact of external factors on agency programs, including industry impact, consumer expectations, and protective legislation.

Evaluates the impact of agency operations and policies on regulated industries and other agency constituents.

Evaluates Program Management System (PMS) projects to provide a basis for agency decisionmaking. Recommends PMS project selections for evaluation, conducts the evaluations, and provides written reports to the Commissioner.

Provides staff support to the agency Evaluation Review Board.

(b–3) *Economics Staff (HFAA8).* Provides economic analyses as input to and support for decisions regarding agency policy issues.

Serves as the agency focal point for economic analysis assistance and consultation; provides economic analysis assistance to agency components for regulatory and other program functions.

Advises and assists the Commissioner and other key officials on a day-to-day basis concerning economic factors relating to current and proposed agency activities.

Provides a resource of economic research material for use by agency officials in preparing testimony before congressional committees and in developing replies to inquiries directed to the agency.

Conducts economic studies of FDA-related industries as a basis for forecasting trends, needs, and major problems affecting the agency.

Provides agency representation to Congress, OMB, HHS, PHS, and others, as appropriate, on economic issues relating to agency regulatios and other current and proposed actions.

2. Following paragraph (d) Office of Legislative Affairs (HFAD) insert new subparagraph (d-1) reading as follows:

(d–1) *Legislative Affairs Staff (HFADB).* Serves as the agency focal point for legislative liaison activities within the agency and with the Department, PHS, and other agencies and for responding to congressional and priority inquiries and on proposed legislation which may affect the agency.

Initiates, coordinates, and/or provides in-depth analyses for the Commissioner, other agency officials, Congress, or OMB on agency legislative needs and legislation affecting the agency including problem-solving with other agencies, preparation of supporting documents for agency views on proposed or pending legislation, and the development of legislative proposals and position papers.

Develops and/or coordinates testimony and data for the agency and Department for presentation to congressional committees; monitors hearings, edits transcripts of agency testimony, and provides any requested additional information.

Provides information on the agency's legislative programs and proposals to consumers and regulated industry.

Initiates and conducts appraisals of Agency policies which may be subject to congressional investigation, in collaboration with center program managers; provides requested information, in cooperation with the General Counsel, to committees investigating agency activities, policies, and programs.

Prepares and signs responses to priority correspondence from Congress and consumers controlled by the Office. Controls and processes correspondence referred by Congress, the White House, and other sources.

3. Following paragraph (e) *Office of Public Affairs (HFAJ)* insert new subparagraphs (e–1) through (e–3) reading as follows:

(e–1) Press Relations Staff (HFAJA). Advises and assists agency officials on press and related matters involving mass media communications.

Plans, develops, and implements an agencywide media strategy for disseminating regulatory and educational material to the public through the mass media.

Serves as the agency focal point for preparing, clearing, and disseminating press releases and other media statements representing agency policy and responding to media inquiries; maintains liaison with the news media and pertinent publications.

Establishes policy for and coordinates all media information activities, including interviews and responses to inquiries, conducted through agency field and center operations; prepares position and policy statements for use by agency employees in responding to media questions.

Coordinates the research and drafting of major public statements by the Commissioner including transmittal documents and supportive statements for use in transactions with the Department, other agencies, and the White House; provides editorial consultation and review for manuscripts, articles, and speeches written by the staff offices serving the Commissioner to ensure consistency of information and policy interpretation and maintains mailing lists for these documents.

Compiles, publishes, and distributes the weekly FDA Enforcement Report and the FDA Public Calendar; maintains the FDA Daily Clipping Service.

(e–2) *Communications Staff (HFAJB).* Identifies consumer communication and educational requirements for the agency and creates, implements, and coordinates appropriate programs conducted through the media, agency consumer affairs officers, and other communication sources.

Plans, designs, produces, publishes, and disseminates audiovisual materials, exhibits, posters, publications, and periodicals, including *FDA Consumer, FDA Today,* and the *FDA Drug Bulletin;* participates in the planning and development of all publications and audiovisual aspects of communications programs directed at mass audiences.

Provides centralized agency graphic arts and editorial services for public information materials.

Acts as the public information liaison with the Department for all publications and audiovisual needs; provides prepublication clearance of publications, exhibits, and audiovisual materials in accordance with procedures established by the agency PHS, the Department, OMB, and the White House.

Provides Agencywide advice and consultation in the production of audiovisual materials; maintains centralized files of photographs and

audiovisual materials for use by all agency components.

(e–3) *Freedom of Information Staff (HFAJC).* Establishes agencywide policy and provides overall direction and leadership for the Freedom of Information (FOI) program and Privacy Act program.

Serves as the agency expert and focal point for Headquarters and field personnel in the development and implementation of effective policies and procedures in accordance with the Freedom of Information Act, the Privacy Act, FDA regulations, and other relevant statutes.

Receives, reviews, controls, coordinates, and routes all FOI requests to the proper action office; designs and implements control mechanisms to assure that FOI and Privacy Act inquiries are processed and responded to within established time frames.

Reviews all recommendations for denials submitted by Headquarters and field FOI Officers. Determines the need for supplemental information and/or changes in the denial recommendation and coordinates required action with the submitting office.

Analyzes, compiles, and prepares reports on privacy and FOI activities in the agency for the annual reports to the Department and for other reporting requirements.

Maintains copies of agency manuals, indexes, and other records required to be on public display.

4. Following paragraph (g) *Office of Health Affairs (HFA5)* insert new subparagraphs (g–1) through (g–3) reading as follows:

(g–1) *Medicine Staff (HFA51).* Provides leadership and direction on medical issues and stimulates medical effort and achievement for the agency.

Conducts hearings and provides medical reviews of hearing requests and proposed findings of fact and conclusions of law recommended by the Administrative Law Judge after evidentiary hearings.

Provides an agencywide focal point for communications with professional organizations and publications.

Maintains continual awareness of changing concepts in health care delivery and medical research. Evaluates their impact on medical programs and policies of the agency.

Advises the Commissioner on the impact of major medical policy initiatives of the Department and makes recommendations for agency implementation of these programs.

Represents the agency on task forces, committees, and before Congress on medical policies and long-term program direction and goals of the agency.

Initiates and coordinates liaison with medical, pharmacy, nursing, and related professions to promote understanding and support of agency programs.

(g–2) *Health Assessment Policy Staff (HFA52).* Provides staff support in conducting of evidentiary hearings. Provides reviews of hearing requests and proposed findings of fact and conclusions of law as recommended by the Administrative Law Judge after evidentiary hearings.

Serves as the agency focal point for the coordination of specific health issues, particularly those related to the approval of new products having significant impact on health care practices, activities of other Federal agencies, and costs.

Advises the Commissioner, Associate Commissioner, and other key agency officials, of human protection needs and of initiatives which will affect agency activities in regard to human protection. Provides staff support to the Research Involving Human Subjects Committee.

Proposes resolutions to intra-agency program problems related to FDA health policies. Evaluates the effectiveness of initiatives and actions affecting major health policies and conducts studies of health program activities.

Provides advice on identifying needs for and the development of new legislation which impacts on agency health policies and public health. Develops implementation plans for agency actions required by new legislation.

Reviews and participates in the preparation of congressional testimony which impacts upon agency health policies.

(g–3) *International Affairs Staff (HFA56).* Serves as the agency focal point for developing and maintaining international communications, policies, and programs, including the development of an agency international strategy plan.

Establishes and provides an agency liaison on international activities with the Department, PHS, other Federal agencies, foreign governments, and international organizations.

Represents the agency at meetings relating to international obligations and/or briefs agency participants in international conferences.

Establishes, identifies, interprets, and clarifies, in cooperation with appropriate agency components, the Agency's international obligations and needs, including the Special Foreign Currency Program. Initiates and monitors programs to meet these responsibilities, and provides policy guidance and advice to agency components.

Maintains an international information exchange program concerning agency policies and programs to provide interchange between FDA and counterpart agencies in foreign countries and international organizations.

Assists in the development, negotiation, and monitoring of agreements with foreign governments and international agencies in cooperation with appropriate agency components; and acts as the agency focal point for intergovernmental conferences.

Negotiates the preparation and implementation of technical assistance programs (including formal training programs and surveys) with foreign governments in areas related to the agency mission. Coordinates ongoing technical assistance operations with the HHS Office of International Affairs, the PHS Office of International Health, and appropriate agency components.

Directs the Agency Foreign Visitors and Foreign Officials Programs, providing participants with policy briefings, technical training, and/or assistance in response to specific needs.

Effective Date: February 25, 1986.

Dated: February 25, 1986.

Wilford J. Forbush,

Director, Office of Management.

[FR Doc. 86–5065 Filed 3–6–86; 8:45 am]

BILLING CODE 4160–01–M

Office of the Assistant Secretary for Health; Statement of Organization, Functions and Delegations of Authority

Part H, Public Health Service (PHS), Chapter HA (Office of the Assistant Secretary for Health) of the Statement of Organization, Functions and Delegations of Authority for the Department of Health and Human Services (DHHS) (42 FR 61318, December 2, 1977, as amended most recently at 50 FR 50847, December 12, 1985), is amended to reflect a reorganization within the National Center for Health Services Research and Health Care Technology Assessment (NCHSR), Office of the Assistant Secretary for Health. Specifically, budget activities will be transferred from the Office of Management, Office of Resource Management, Division of Financial Management, OASH Financial Management Branch, to NCHSR, Office of Program Support.

Under Part H, Chapter HA, Office of the Assistant Secretary for Health (OASH), Section HA–20 Functions, under the heading for *the National Center for Health Services Research and Health Care Technology Assessment (HAR),* revise the functional statement for the *Office of Program Support (HAR13)* by deleting item #3 and inserting the following: "(3) serves as principal advisor in areas of financial management activities and manages a system of budgetary, expenditure and employment controls."

Effective Date: February 26, 1986.

Wilford J. Forbush,

Director, Office of Management.

[FR Doc. 86–5064 Filed 3–6–86; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. N–86–1595]

Submission of Proposed Information Collections to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have 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 proposals.

ACTION: Interested persons are invited to submit comments regarding these proposals. 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 proposals 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 Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Application for Approval as a Participating Lender (Commitment Correspondent/Coinsurance Lenders)
Office: Housing
Form Number: HUD–92001, 92001B, 92001C, 92001D, 92001E, and 92001K
Frequency of Submission: On Occasion
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 3,380
Status: Revision
Contact: William Park, HUD, (202) 755–6700; 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: February 21, 1986.

Proposal: Consolidated Supply Program: Procurement Needs Survey
Office: Public and Indian Housing
Form Number: None
Frequency of Submission: Annually
Affected Public: State or Local Governments and Non-Profit Institutions
Estimated Burden Hours: 1,600
Status: New
Contact: Joyce Roberson, HUD, (202) 472–4703; 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: February 20, 1986.

Proposal: Consolidated Supply Program (CSP)—Reporting Requirements
1. Submission of Sales Reports by CSP Suppliers
2. Submission of Testing/Certification Reports by Potential CSP Suppliers

Office: Public and Indian Housing
Form Number: None
Frequency of Submission: On Occasion and Semi-annually
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 4,860
Status: New
Contact: Joyce Roberson, HUD, (202) 472–4703; 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: February 20, 1986.

Proposal: Restriction on Use of Assisted Housing
Office: Housing
Form Number: None
Frequency of Submission: Annually
Affected Public: Individuals or Households and Business or Other For-Profit
Estimated Burden Hours: 167,220
Status: New
Contact: Judy Lemeshewsky, HUD, (202) 755–6870; 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: February 11, 1986.

Dennis F. Geer,

Director, Office of Information Policies and Systems.

[FR Doc. 86–5060 Filed 3–6–86; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

Privacy Act of 1974—Revision of Notice of System of Records

Pursuant to the provisions of the Privacy Act of 1974, as amended (5 U.S.C. 552a), notice is hereby given that the Department of the Interior proposes to revise a notice describing a system of records maintained by the Bureau of Mines. Except as noted below, all changes being published are editing corrections, updating and clarifying amendments, and other minor administrative revisions which have occurred since the previous publication of the notice in the Federal Register on October 4, 1983 (48 FR 45314). The notice being revised, which is published in the entirety below, is titled "Safety Management Information System—Interior, Mines–6".

The existing routine disclosure statement for litigation purposes is revised to incorporate the clarification on such disclosures prescribed by the Office of Management and Budget (OMB) in its supplementary guidelines dated May 24, 1985, for implementing the Privacy Act. The statements on storage and retrieval are revised to document the conversion of the records to magnetic media for desk top computer use. The conversion will not result in any new uses of the information or result in substantially greater access to the records in the system.

Since these changes do not involve any new or intended use of the information in the system of records, the notice shall be effective April 7, 1986. Additional information regarding these revisions may be obtained from the Department Privacy Act Officer, Office of the Secretary (PIR), Room 7357, Main Interior Building, U.S. Department of the Interior, Washington, D.C. 20240.

Oscar W. Mueller, Jr.,

Director, Office of Information Resources Management.

Dated: February 28, 1986.

INTERIOR/WBM–6

SYSTEM NAME:

Safety Management Information System—Interior, Mines–6.

SYSTEM LOCATION:

(1) Bureau of Mines, U.S. Department of the Interior, 2401 E Street, NW., Washington, D.C. 20241. (2) All field and headquarters organizations of the Bureau of Mines retain copies of source documents.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees, contractors, concessioners and public visitors to Bureau facilities who have been involved in an accident resulting in personal injury, illness, and/or property damage, or exposed to a health hazard.

CATEGORIES OF RECORDS IN THE SYSTEM:

Contains the name, social security number (employees only), occupation, date and location of accident; data elements about the accident for analytical purposes; and descriptive narraive concerning the reason for the loss producing event.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

(1) 5 U.S.C. 7901, (2) 28 U.S.C. 2671–2680, (3) 31 U.S.C. 3701, 3721, (4) Executive Order 12196, (5) 29 CFR Part 1960.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The primary uses of the automated and manual records are to (a) provide summary data of injury, illness, and property loss information to Bureau managment in a number of formats for analytical purposes in establishing programs to reduce or eliminate loss producing problem areas, (b) provide listings of individual cases to Bureau management to ensure that accidents occuring are reported through the Bureau Safety Management Information System for forwarding to the Department of the Interior Safety Management Information System, and (c) adjudicate tort and employee claims. Disclosures outside the Bureau of Mines may be met: (1) To a Federal, State, or local government agency that has partial or complete jurisdiction over the claim or related claims; (2) to provide the Department of Labor through the Department of the Interior quarterly summary listings of fatalities and disabling injuries and illnesses in compliance with 29 CFR 1960.66–.74; (3) to the U.S. Department of Justice or in a proceeding before a court or adjudicative body when (a) the United States, the Department of the Interior, a component of the Department, or when represented by the government, an employee of the Department is a party to litigation or anticipated litigation or has an interest in such litigation, and (b) the Department of the Interior determines that the disclosure is relevant to the litigation and is compatible with the purpose for which the records were compiled; (4) of information indicating a violation or potential violation of statute, regulation, rule, order, or license, to appropriate Federal, State, local, or foreign agencies responsible for investigating or prosecuting the violation or for enforcing or implementing the statute, rule, regulation, order, or license, and (5) to a congressional office from the record of an individual in response to an inquiry the individual has made to the congressional office.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

(1) Automated records are maintained on flexible disks. (2) Source documents (manual records) are maintained at Bureau field and headquarters organizations from which the accident is reported. (3) Manual records are maintained in book format and/or file folders.

RETRIEVABILITY:

(1) Automated records are retrievable by name or document control number. (2) Manual records are retrievable by name or document control number.

SAFEGUARDS:

(1) Automated records are maintained with safeguards meeting the FIPS PUB 41, "Computer Security Guidelines for Implementing the Privacy Act of 1974." (2) Security is provided to meet the requirements of 43 CFR 2.51 for manual records.

RETENTION AND DISPOSAL:

(1) The retention and disposal determination for the automated records stored on flexible disks is pending approval of the Archivist of the United States. (2) Disposal determination for the manual records is suspended until further notice per GSA FPMR Bulletin G–136, March 21, 1984.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Safety Management Staff, Bureau of Mines, 2401 E Street, NW., Washington, D.C. 20241.

NOTIFICATION PROCEDURE:

To determine whether automated and/or manual records are maintained on you in this system, write to the System Manager or field or headquarters organizations in which the source document pertaining to yourself would be filed. A written and signed request stating that the requestor seeks information concerning records pertaining to him/her is required. See 43 CFR 2.60.

RECORDS ACCESS PROCEDURES:

A request for access should be addressed to the System Manager or the field or headquarters organization in which the source document for the individual would be filed. Describe as specifically as possible the records sought. If copies are desired indicate the maximum you are willing to pay. See 43 CFR 2.63.

CONTESTING RECORD PROCEDURES:

To request correction or the removal of material from your file(s), write the System Manager. See 43 CFR 2.71.

RECORD SOURCE CATEGORIES:

Supervisor of employees involved in accidents. Investigative reports by supervisors, safety and health professionals, other management officials, or any combination thereof

[FR Doc. 86-5005 Filed 3-6-86; 8:45 am]

BILLING CODE 4310-53-M

Bureau of Land Management

1985 Amendments to the California Desert Plan and Eastern San Diego Draft Environmental Impact Statement

AGENCY: Bureau of Land Management.

ACTION: Notice of availability.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared Draft Environmental Impact Statement (DEIS) on the 1985 Amendment review of the California Desert Plan and Eastern San Diego County Managment Framework Plan..

DATE: Comments on the DEIS are being accepted for 90 days from the date of this notice.

ADDRESS: For further information contact Gerald E. Hillier, District Manager, California Desert District, 1696 Spruce Street, Riverside, California 92507.

SUPPLEMENTARY INFORMATION: Twenty amendments were accepted for consideration. The amendments propose changes in planning guidelines for waste disposal and agriculture, as well as site-specific measures. The latter include changes in vehicle access restrictions, Areas of Critical Environmental Concern (ACECs) and Special Areas, grazing allotments, wild horse and burro management, and multiple use class designation. Under the preferred alternative, 18 amendments would either be accepted or accepted with modification, and two would be rejected.

Comments on the DEIS should be submitted to the following address to assure timely processing: 1985 Plan Amendments, Bureau of Land Management, California Desert District, 1695 Spruce Street, Riverside, California 92507.

A limited number of copies of the Draft Environmental Impact Statement are available upon request at the address listed above for comments. Copies are also available for review at two other locations:

USDI, Bureau of Land Management, 2800 Cottage Way, Room E-2841, Sacramento, California 95825

USDI, Bureau of Land Management, 1725 I Street, N.W., Suite 906, Washington, D.C. 20240.

Dated: February 27, 1986.

Ed Hastey,

State Director.

[FR Doc. 86-5079 Filed 3-6-86; 8:45 am]

BILLING CODE 4310-40-M

[A-20348]

Realty Action; Exchange of Federal Lands For State Lands in Mohave and Coconino Counties, AZ

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of realty action—Exchange of Federal lands for State lands in Mohave and Coconino Counties, AR.

SUMMARY: The following described public land has been determined to be available for disposal by state exchange under section 206 of the Federal Land Policy and Management Act of October 21, 1976, 43 U.S.C. 1716:

Selected Public Lands

Gila and Salt River Meridian, Mohave County, Arizona—5,807.72 acres.

T. 39 N., R. 16 W.,
- Sec. 1, Lots 3 & 4, S½NW¼, SW¼;
- Sec. 3, NE¼SE¼, SW¼SE¼;
- Sec. 4, Lot 2;
- Sec. 5, Lots 2, 3 & 6, N½S½SE¼;
- Sec. 8, Lots, 2, 3 & 4, S½NE¼SE¼;
- Sec. 9, SW¼NE¼, NE¼NW¼, S½NW¼, S½;
- Sec. 10, W½NE¼, SE¼NW¼, NE¼SE¼;
- Sec. 12, W½;
- Sec. 13, N½NW¼;
- Sec. 14, SW¼SE¼;
- Sec. 17, Lots 1, 2, 3, & 4, W½E½;
- Sec. 22, W½NW¼.

T. 40 N., R. 15 W.,
- Sec. 3, SE¼NE¼, S½SW¼, SE¼;
- Sec. 4, S½SE¼;

T. 40 N., R. 16 W.,
- Sec. 33, SW¼SE¼;
- Sec. 34, NE¼, N½NW¼, N½SE¼, SE¼ SE¼.

T. 41 N., R. 12 W.,
- Sec. 5, Lots 3 & 4, S½NW¼;
- Sec. 6, Lots 1, 2, 3, 4, & 5, S½NE¼, SE¼ NW¼;
- Sec. 8, SW¼NW¼, W½SW¼.

T. 41 N., R. 13 W.,
- Sec. 1, Lots 1, 2, 3 & 4, S½N½S½.

41 N., R. 15 W.,
- Sec. 20, SW¼;
- Sec. 28, All;
- Sec. 33, Lots 1, 4 & 5, NE¼, SE¼SW¼, N½ SE¼, N½SW¼SE¼, SE¼SW¼SE¼, SE¼SE¼;
- Sec. 35, SE¼.

Gila and Salt River Meridian, Coconino County, Arizona—1,960.00 acres.

T. 41 N., R. 2 W.,
- Sec. 9, S½NE¼, SE¼NW¼, E½SW¼, SE¼;
- Sec. 21, Lots 1, 2, 3 & 4, NE¼,NE¼SE¼;
- Sec. 22, All;
- Sec. 27, All.

In exchange for the above described 5,807.72 acres in Mohave County and the 1,960.00 acres in Coconino County, the Federal Government will acquire scattered state-owned land of equal or greater value to that disposed of in each of the respective counties.

Under the provisions of 43 CFR 2201.1 this Notice of Realty Action shall segregate the lands from appropriation under the mining laws and mineral leasing laws subject to valid existing rights or leases. This segregation shall terminate upon publication in the **Federal Register** of a termination notice or after two years and the exchange is not consummated, whichever occurs first.

For a period of forty-five (45) days, interested parties may submit comments to the District Manager, Arizona Strip District, 196 Tabernacle, St. George, Utah 84770.

G. William Lamb,

District Manager.

February 26, 1986.

[FR Doc. 86-4951 Filed 3-6-86; 8:45 am]

BILLING CODE 4310-32-M

Fish and Wildlife Service

Receipt of Application for Permit; Monterey Bay Aquarium

The public is invited to comment on the following application for permits to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.)*, the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531 *et seq.)*, and the regulations governing marine mammals and endangered species (50 CFR Parts 17 and 18).

Applicant: Monterey Bay Aquarium, 886 Cannery Row, Monterey, CA 93940.
File No.: PRT–703927.
Type of permit: Scientic research.
Name and number of animals: At least one adult female S. sea otter (*Enhydra lutra nereis*).
Summary of activity to be authorized: The applicant proposes to take this animal for scientific research.
Source of marine mammals for display: Monterey Peninsula.
Period of activity: 1 year.

Concurrent with the publication of this notice in the **Federal Register**, the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (FWPO), 1000 North Glebe Road, Room 611, Arlington, Virginia 22201, within 30 days of the publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents submitted in connection with the above application are available for review during normal business hours (7:45 am to 4:15 pm) in Room 601, 1000 W. Glebe Road, Arlington, Virginia.

Dated: March 4, 1986.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 86–5052 Filed 3–6–86; 8:45 am]

BILLING CODE 4310–55–M

Receipt of Application for Permit; Rio Grande Zoo, Albuquerque, NM

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR Part 18).

Applicant: Rio Grande Zoo, 903 Tenth Street, SW, Albuquerque, New Mexico 87102. *File No:* PRT–702986.
Type of permit: Scientific research.
Name and number of animals: 1.2 Polar bears (*Ursus maritimus*).
Summary of activity to be authorized: The applicant proposes to import these animals for the purpose of scientific research.
Source of marine mammals for display: Manitoba, Canada; one mother bear and her two cubs; taken as nuisance bears.
Period of activity: 1 year.

Concurrent with the publication of this notice in the **Federal Register**, the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (FWPO), 1000 North Glebe Road, Room 611, Arlington, Virginia 22201, within 30 days of the publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents submitted in connection with the above application are available for review during normal business hours (7:45 am to 4:14 pm) in Room 601, 1000 North Glebe Road, Arlington, Virginia.

Dated: March 4, 1986.

Larry LaRochelle,

Acting Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 86–5051 Filed 3–6–86; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Information Collection Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the requirement should be made within 30 days directly to the Bureau clearance officer and to the Office of Management and Budget Interior Department Desk Officer, Washington, DC 20503, telephone 202–395–7313, with copies to David A. Schuenke; Chief, Rules, Orders, and Standards Branch; Offshore Rules and Operations Division; Minerals Management Service; 12203 Sunrise Valley Drive; Mail Stop 646; Room 6A110; Reston, Virginia 22091.

Title: Notice of Processing of Geological and Geophysical Information, 30 CFR 251.11 and 251.12

Abstract: Respondents conducting exploration for oil or gas provide the Minerals Management Service with geological and geophysical data, processed and analyzed information, and interpretations which are used to properly evaluate Federal Outer Continental Shelf (OCS) resources and environmental conditions as required by the OCS Lands Act.

Bureau Form Number: None.
Frequency: On occasion.
Description of Respondents: Federal OCS permittees.
Annual Responses: 620.
Annual Burden Hours: 32,240.
Bureau Clearance Officer: Dorothy Christopher, 703–435–6213.

Dated: January 27, 1986.

John B. Rigg,

Associate Director for Offshore Minerals Management.

[FR Doc. 86–5006 Filed 3–6–86; 8:45 am]

BILLING CODE 4310–MR–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 21215 (Sub-3)[1]]

Seaboard Air Line Railroad Co.; Merger; Atlantic Coast Line Railroad Co.

AGENCY: Interstate Commerce Commission.

ACTION: Proceeding reopened and modified procedure scheduled.

SUMMARY: Southern Railway Company (Southern) and Seaboard System Railroad, Inc. (Seaboard) have filed a petition to reopen this merger to consider removing or amending a condition. The condition requires Seaboard to "maintain and keep open all routes and channels of trade via existing junctions and gateways, unless and until otherwise authorized by the Commission." [2] Seaboard and Southern want to eliminate the Seaboard-Southern interchange at Lincolnton, NC that is required to be maintained and kept open under the condition. We are reopening this proceeding to consider removing this condition with regard to the Lincolnton interchange. Our analysis will be based on the criteria of 49 U.S.C. 11344(b)(1).

ADDRESSES: Send an original and 10 copes of all pleadings referring to Finance Docket No. 21215 (Sub-No. 3) to:

[1] This proceeding is given a new sub-number to distinguish it from earlier proceedings.

[2] *Seaboard Air Line R. Co.—Merger -Atlantic Coast Line*, 320 I.C.C. 122, 267 (1963).

Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
Send one copy of each pleading to petitioners' representatives:
William H. Teasley, Norfolk Southern Corp., 8 North Jefferson Street, Roanoke, VA 24042
R. Lyle Key, Jr., Seaboard Ssytem Railroad, Inc., 500 Water Street, Jacksonville, FL 32202

DATES: Comments are due April 7, 1986. Replies are due April 22, 1986.

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

SUPPLEMENTARY INFORMATION: The Lincolnton interchange is served by Seaboard three times per week, and by Southern two or three times per week, or as needed. Petitioners state that a minimal number of cars (65 loaded and 43 empty in 1984, and 38 loaded and 22 empty in the first 6 months of 1985) is interchanged at Lincolnton. Petitioners argue that these cars could be interchanged more efficiently and expeditiously at Charlotte, NC, 40 miles east of Lincolnton, where Seaboard and Southern interchange cars two or three times per day, seven days per week. Eliminating the Lincolnton interchange would also permit elimination of one main line turnout at Lincolnton..

Decided: February 27, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

James H. Bayne,

Secretary.

[FR Doc. 86–5044 Filed 3–6–86; 8:45 am]

BILLING CODE 1035–01–M

[Docket No. AB–208 (Sub-1X)]

Wolfeboro Railroad Associates; Abandonment Exemption in Carroll County, NH; Exemption

Applicant has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments* to abandon its entire line of railroad extending from Wolfeboro to Sanbornville, a distance of 12 miles in Carroll County, NH.

Applicant has certified (1) that no local freight traffic has moved over the line for at least 2 years and that overhead traffic is not moved over the line, and (2) that no formal complaint filed by a user of rail service on the line (or by a State or local governmental entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Commission or any U.S. District Court, or has been decided in favor of the complainant within the 2-year period. The appropriate State agency has been notified in writing at least 10 days prior to the filing of this notice.

The Commission does not normally impose labor protective conditions in an entire line abandonment unless the evidence shows that the applicant has a corporate affiliate that will continue carrier operations or a corporate parent that will realize significant benefits as a result of the abandonment. *See Northampton and Bath R. Co.—Abandonment*, 354 I.C.C. 784 (1978). Because neither of these exceptions appear to apply, we will not impose employee protective conditions.

The exemption will be effective April 6, 1986, (unless stayed pending reconsideration). Petitions to stay must be filed by March 17, 1986, and petitions for reconsideration, including environmental, energy, and public use concerns, must be filed by March 27, 1986, with: Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

A copy of any petition filed with the Commission should be sent to applicant's representative: T.S.L. Perlman, 1401 New York Avenue, NW., Washington, DC 20005.

If the notice of exemption contains false or misleading information, use of the exemption is void *ab initio*.

A notice to the parties will be issued if use of the exemption is conditioned upon environmental or public use conditions.

Decided: March 3, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 86–5043 Filed 3–6–86; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Lodging of Proposed Consent Decree Pursuant to Clean Water Act

In accordance with Department policy, 28 CFR § 50.7, notice is hereby given that on February 24, 1986, a proposed consent decree in *United States of America* v. *Murfreesboro Water and Sewer Department of the City of Murfreesboro, Tennessee and The State of Tennessee*, Civil Action No. 3–85–0218 was lodged with the United States District Court for the Middle District of Tennessee. The proposed consent decree concerns discharge of pollutants from the City of Murfreesboro's sewage treatment plant. The proposed consent decree requires the defendant to comply with its Clean Water Act permit and pay civil penalties for past violations. The consent decree provides that defendant will undertake a program of construction and modifications to its sewage collection system in accordance with a schedule set forth in the decree, sets interim discharge limits, and requires defendant to achieve compliance with its permit no later than July 1, 1988. Stipulated penalties are mandated for failure to achieve interim discharge limits or meet compliance schedules. The City of Murfreesboro is required to pay a civil penalty of $10,000 in settlement of the government's civil panalty claims.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC 50530, and should refer to *United States of America* v. *Murfreesboro Water and Sewer Department of the City of Murfreesboro*, D.J. Ref. 90–5–1–1–2255.

The proposed consent decree may be examined at the office of the United States Attorney, Middle District of Tennessee, 879 U.S. Courthouse, Nashville, Tennessee 37203 and at the Region IV Office of the Environmental Protection Agency, 345 Courtland Street NE., Atlanta, Georgia 30365. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.70 (10 cents per page reproduction costs) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 86–5007 Filed 3–6–86; 8:45 am]

BILLING CODE 4410–01–M

Antitrust Division

United States v. S.p.A. Officine Maccaferri; Maccaferri Gabions Manufacturing Company, Inc.; and River and Sea Gabions (London) Limited: Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. section 16(b)–(h), that a complaint, proposed final judgment, stipulation, and competitive impact statement have been filed with the United States District Court for the District of Maryland in *United States of America* v. *S.p.A. Officine Maccaferri; Maccaferri Gabions Manufacturing Company, Inc.; and River and Sea Gabions (London) Limited.*

The complaint of the United States in this case alleges that the effect of the 1983 acquisition of Terra Aqua Inc. by River and Sea Gabions (London) Limited may be substantially to lessen competition in the United States market for the manufacture and sale of gabions, in violation of section 7 of the Clayton Act (15 U.S.C. 18).

Gabions are rectangular, wire mesh containers which are filled with hand-size stones and wired together to form large structures that are used in river training, flood control, landscaping, and erosion control. Gabions are used primarily in municipal, state and federal public works projects.

Officine Maccaferri, through its subsidiary, River and Sea Gabions (London) Limited, acquired Terra Aqua on February 15, 1983. River and Sea was named as a defendant in the complaint, as was Maccaferri Gabions Manufacturing Company, Inc. ("MGMC"). MGMC, which is also controlled by Maccaferri, manufactures gabions at its plant in Williamsport, Maryland and sells them throughout the United States. Prior to the acquisition in 1983, Terra Aqua and MGMC were the only two manufacturers of gabions in the United States. Officine Maccaferri now accounts for almost 99% of the approximately $12 million United States market for gabions.

The proposed final judgment required Officine Maccaferri and River and Sea to divest all of their interest in Terra Aqua, with the exception of certain proprietary equipment installed by Maccaferri, within six months of the date of entry of the proposed final judgment. If they fail to do so, the proposed final judgment provides that Terra Aqua shall be sold by a trustee to a purchaser acceptable to the United States.

The proposed final judgment also requires the defendants to maintain and make certain repairs and improvements to Terra Aqua's production equipment prior to divestiture. In addition, the proposed final judgment contains other provisions designed to protect Terra Aqua's ability to compete after its divestiture.

Public comment is invited within the statutory 60-day comment period. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the court. Comments should be directed to John W. Clark, Chief, Professions and Intellectual Property Section, Antitrust Division, United States Department of Justice, Room 9120, Star Building, 414 11th St. NW., Washington, D.C. 20530 (telephone (202) 724–6335).

Joseph H. Widmar,

Director of Operations Antitrust Division.

U.S. District Court for the District of Maryland

[Civil Action No. B–86–612]

United States of America, Plaintiff, v. *S.p.A. Officine Maccaferri; Maccaferri Gabions Manufacturing Company, Inc.; and River and Sea Gabions (London) Limited,* Defendants.

Stipulation

It is stipulated by and between the undersigned parties, by their respective attorneys, that:

(1) The parties consent that a Final Judgment in the form hereto attached may be filed and entered by the Court, upon the motion of any party or upon the Court's own motion, at any time after compliance with the requirements of the Antitrust Procedures and Penalities Act (15 U.S.C. 16), and without further notice to any party or other proceedings, provided that plaintiff has not withdrawn its consent, which it may do at any time before the entry of the proposed Final Judgment by serving notice thereof on defendant and by filing that notice with the Court.

(2) The parties shall abide by and comply with the provisions of the Final Judgment pending entry of the Final Judgment.

(3) In the event plaintiff withdraws its consent or if the proposal Final Judgment is not entered pursuant to this Stipulation, this Stipulation shall be of no effect whatever and the making of this Stipulation shall be without prejudice to any party in this or any other proceeding.

Dated: February 24, 1986.

Douglas H. Ginsburg, *Assistant Attorney General.*

Mark Leddy, Joseph H. Widmar, John W. Clark, *Attorneys, Department of Justice.*

John F. Greaney, J. Robert Kramer, II, Phillip R. Malone, *Attorneys, Department of Justice, Antitrust Division,* Washington, DC 20530, Telephone: 202/724–7469.

For the defendants S.p.A. Officine Maccaferri; Maccaferri Gabions Manufacturing Company, Inc.; and River and Sea Gabions (London) Limited:

Pavia & Harcourt,

By: Jeffrey E. Livingston, *A Member of the Firm,* 600 Madison Avenue, New York, NY 10022, 212/980–3500.

Kaye, Scholer, Fierman, Hays & Handler,

By Michael Malina, *A Member of the Firm* 425 Park Avenue, New York, NY 10022, 212/407–8000.

U.S. District Court for the District of Maryland

Civil Action No. B–86–612

United States of America, Plaintiff, v. *S.p.A. Officine Maccaferri; Maccaferri Gabions Manufacturing Company, Inc.; and River and Sea Gabions (London) Limited,* Defendants.

Final Judgment

Whereas, plaintiff, United States of America, having filed its Complaint herein on February 24, 1986, and plaintiff and defendants, by their respective attorneys, having consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law herein, and without this final Judgment constituting any evidence against, or any admission by, any party with respect to any such issue;

And whereas, the defendants have agreed to be bound by the provisions of this Final Judgment pending its approval by the Court;

And whereas, prompt and certain divestiture is the essence of this agreement and the defendants have represented to the plaintiff that the divestiture required below can and will be made and that defendants will later raise no claims of hardship or difficulty as grounds for asking the Court to modify any of the provisions contained below;

Now, therefore, before the taking of any testimony, and without trial or adjudication of any issue of fact or law herein, and upon consent of the parties hereto, it is hereby

Ordered, adjudged and decreed as follows:

I

This Court has jurisdication of the subject matter of this action and of each of the parties hereto. The Complaint states a claim upon which relief may be granted against defendants under

Section 7 of the Clayton Act, as amended (15 U.S.C. 18).

II

As used in this Final Judgment:

A. "Gabions" means rectangular, compartmented containers fabricated from a triple-twisted hexagonal mesh of heavily galvanized steel wire, sometimes with an additional polyvinyl chloride coating, designed to be filled with hand-size stones and wired together with other gabions of form flexible and permeable structures used in river training and flood control, soil erosion control and shore and coastal protectio applications.

B. "Defendants" means S.p.A. Officine Maccaferri, Maccaferri Gabions Manufacturing Company, Inc., River and Sea Gabions (London) Limited, each division, subsidiary or affilicate thereof and each officer, director, employer, attorney, agent or other person acting for or on behalf of any of them.

C. "Terra Aqua" means Terra Aqua, Inc., each division, subsidiary or affiliate thereof and each officer, director, employee, attorney, agent or other person acting for or on behalf of any of them. The term Terra Aqua shall exclude all Retained Assets.

D. "4930 Property" means the real property and structure owned by Terra Aqua located at 4950 Energy way, Reno, Nevada.

E. "Retained Assets" means the machinery, identified in Appendix A to this Final Judgment, which was installed by defendants at the 4930 Property in 1984 and has been used in the production of Maccaferri Gabions. If the buyer of Terra Aqua does not exercise its right to purchase the 4950 Property, the 4930 Property shall also be considered a Retained Asset.

F. "Person" means any natural person, corporation, association, firm, partnership or other business or legal entity.

III

A. The provisions of this Final Judgment shall apply to the defendants, to each of their divisions, subsidiaries, affiliates, successors and assigns, to each of their officers, directors, agents, attorneys and to all other persons in active concert or participation with any of them who receive actual notice of this final Judgment by personal service or otherwise.

B. Defendants shall require, as a condition of the sale or other disposition of all or substantially all of their assets involved in the production of gabions other than Terra Aqua, that the acquiring party agree to be bound by the provisions of this Final Judgment.

IV

A. Within six (6) months of the date of entry of this Final Judgement, defendants are hereby ordered and directed to divest to a purchaser or purchasers all of their direct and indirect ownership in and control over Terra Aqua.

B. Divestiture of Terra Aqua shall be accomplished in such a way as to ensure that, as of the time of divestiture, it can reasonably be anticipated that Terra Aqua can and will be operated by the purchaser or purchasers as a viable, ongoing business engaged in the manufacture and sale of gabions. Divestiture shall be made to a purchaser or purchasers who shall demonstrate to the plaintiff or, if plaintiff objects, to the Court that (i) the purchase is for the purpose of competing effectively in the manufacture and sale of gabions, and (ii) the purchaser or purchasers have the managerial, operational and financial capability to compete effectively in the manufacture and sale of gabions.

C. In accomplishing the divestiture ordered by this Final Judgment, the defendants shall make known, by usual and customary means, the availability of Terra Aqua for sale as an ongoing business. The defendants shall notify any person making an inquiry regarding the possible purchase of Terra Aqua that the sale is being made pursuant to this Final Judgment and provide such person with a copy of this Final Judgment. The defendants shall also furnish to all bona fide prospective purchasers who so request all pertinent information regarding Terra Aqua and shall permit them to make such inspection of physical facilities and any and all financial, operational, or other documents and information as may be relevant to the sale of Terra Aqua.

D. The purchaser or purchasers shall have the right, but not the obligation, to purchase the 4930 Property. If the purchaser or purchasers exercise their right to purchase such property, defendants shall remove all Retained Assets from the 4920 Property at their own expense. In the event the purchaser or purchasers elect not to purchase the 4930 Property, one or more of the defendants or an agent thereof will assume any mortgage liability appertaining to the 490 Property.

V.

A. If the defendants have not divested all of their ownership interest in Terra Aqua within the time period specified in Section IV(A) of this Final Judgment, the Court shall, on application of the plaintiff, appoint a trustee to effect the divestiture. Such appointment shall become effective not more than 45 days following the filing of the petition. The trustee shall dispose of Terra Aqua at such price and on such terms as are then obtainable upon a reasonable effort by the trustee, subject to the provisions of Section VI of this Final Judgement, and shall have such other powers as this Court shall deem appropriate. The trustee shall have the exclusive right and power to divest Terra Aqua, and defendants shall not object to a sale by the trustee on any grounds other than malfeasance.

B. If defendants have not divested all of their ownership interest in Terra Aqua within five (5) months of the date of entry of this Final Judgment, the plaintiff and the defendants (acting jointly) shall immediately notify each other in writing of the names and qualifications of not more than two (2) nominees for the position of trustee for the required divestiture. The parties shall attempt to agree upon one of the nominees to serve as the trustee. If the parties are able to agree on a trustee within thirty (30) days of the exchange of names, plaintiff shall notify this Court of the person upon whom the parties agreed and this Court shall appoint such person as the trustee. If the parties are unable to agree within that time period, plaintiff shall furnish this Court the names of each party's nominees. This Court may hear the parties as to the qualifications of the nominees and shall appoint one of the nominees as the trustee.

C. The trustee shall serve at the cost and expense of the defendants, on such terms and conditions as the Court may prescribe, and shall account for all monies derived from a sale of Terra Aqua and all costs and expenses so incurred. After approval by the Court of the trustee's accounting, including fees for its services, all remaining monies shall be paid to the defendants and the trust shall then be terminated. The compensation of such trustee shall be based on a fee arrangement providing the trustee with an incentive based on the price and terms of the divestiture and the speed with which it is accomplished.

D. Defendants shall use their best efforts to asssist the trustee in accomplishing the required divestiture. The trustee shall have full and complete access to the facility, personnel, books and records of Terra Aqua, and defendants shall develop such financial or other information relevant to the assets to be divested as the trustee may request. Defendants shall take no actior to interfere with or impede the trustee's accomplishment of the divestiture.

E. After its appointment, the trustee shall file monthly reports with the parties and the Court setting forth the trustee's efforts to accomplish divestiture as contemplated under this Final Judgment. If the trustee has not accomplished such divestiture within six (6) months after its appointment, the trustee shall thereupon promptly file with the Court a report setting forth (i) the trustee's efforts to accomplish the required divestiture, (ii) the reasons, in the trustees' judgment, why the required divestiture has not been accomplished, and (iii) the trustee's recommendations. The trustee shall at the same time furnish such report to the parties, who shall each have the right to be heard and to make additional recommendations consistent with the purpose of the trust. The Court shall thereafter enter such orders as it shall deem appropriate in order to carry out the purpose of the trust, which shall, if necessary, include extending the trust and the term of the trustee's appointment.

VI

At least thirty (30) days prior to the scheduled closing date of any proposed divestiture pursuant to Section IV or V of this Final Judgment, defendants or the trustee, whichever is then responsible for effecting the divestiture required herein, shall notify the plaintiff of the proposed divestiture. If a trustee is responsible, it shall similarly notify the defendants. The notice shall set forth the details of the proposed transaction and list the name, address and telephone number of each person not previously identified who offered or expressed an interest or desire to acquire any ownership interest in Terra Aqua together with full details of same. Within fifteen (15) days of receipt by plaintiff of such notice, the plaintiff may request additional information concerning the proposed divestiture and the proposed purchaser. The defendants and, if applicable, the trustee shall furnish the additional information within twenty (20) days of the receipt of the request, unless the parties shall otherwise agree. Within thirty (30) days after receipt of the notice or within (15) days after receipt of the additional information, whichever is later, the plaintiff shall notify in writing the defendants and the trustee, if there is one, if it objects to the proposed divestiture. If the plaintiff fails to object within the periods specified, or if the plaintiff notifies in writing the defendants and the trustee, if there is one, that it does not object, then the divestiture may be consummated, subject only to defendants' limited right to object to the sale on the ground set forth in Section V(A). Upon objection by the plaintiff, or by the defendants on the ground set forth in section V(A), the proposed divestiture shall not be accomplished unless approved by the Court. The defendants shall have no right to object to any divestiture of Terra Aqua proposed by the trustee except on the ground set forth in Section V(A).

VII

Thirty (30) days from the date of entry of this Final Judgment and every thirty (30) days thereafter until the divestiture has been completed, the defendants shall deliver to plaintiff an affidavit as to the fact and manner of compliance with Section IV of this Final Judgment. Each such affidavit shall include the name, address and telephone number of each person who, during the preceding thirty (30) days, made an offer, expressed an interest or desire to acquire, or entered into negotiations to acquire, or made an inquiry about acquiring any ownership interest in, Terra Aqua, and shall describe in detail each contact with any such person during that period. The defendants shall maintain full records of all efforts made to divest Terral Aqua.

VIII

Before the divestiture required by this Final Judgment has been accomplished, the defendants shall make improvements and repairs sufficient to restore the gabion production machinery of Terra Aqua at least to its original design performance capability and to assure the sale of Terra Aqua as a viable competitor in the manufacture and sale of gabions. Such improvements and repairs shall include, but not be limited to, those specified in the March 19, 1985 quotation of Mecon Industries Limited, and shall be performed by Mecon Industries Limited or other contractor acceptable to plaintiff.

IX

Until the divestiture required by this Final Judgment has been accomplished, the defendants shall:

A. Maintain the gabion production machinery of Terra Aqua in good working order;

B. Upon completion of the improvements and repairs required in Section VIII above, refrain from producing gabions at Terra Aqua with the Retained Assets and commence gabion production at Terra Aqua using the gabion production machinery that is to be divested;

C. Refrain from altering or selling any assets of Terra Aqua, other than in the ordinary course of business or as required in Sections VIII or IX B above, or from taking any action that will have the effect of reducing the scope of Terra Aqua's manufacturing or sales operations or its product line from that existing at the time of the defendants' acquisition of Terra Aqua, without the prior approval of the plaintiff;

D. Maintain adequate inventories of Terra Aqua gabions to allow the purchase of Terra Aqua as a viable ongoing business;

E. Refrain from taking any action that would jeopardize the sale of Terra Aqua as a viable competitor in the manufacture and sale of gabions; and

F. Maintain the existing marketing organization for the sale of gabions by Terra Aqua separate and apart from the marketing organization of MGMC in the same manner and to the same extent as if Terra Aqua and MGMC were competitors, and there shall be no understanding, agreement, consultation, or other communication direct or indirect, between the two organizations or their members with regard to prices or terms of sale to customers of gabions or as to the allocation or division of trade or customers. Defendants shall forthwith advise in writing all their managerial employees having any responsibilities with regard to the marketing of gabions in the United States of the provisions of this paragraph.

X

For the purposes of determining or securing compliance with this Final Judgment and subject to any legally recognized privilege, from time to time:

A. Duly authorized representatives of the Department of Justice shall, upon written request of the Attorney General or of the Assistant Attorney General in charge of the Antitrust Division, and on reasonable notice to any defendant made to its principal office, be permitted:

1. Access during office hours of such defendant to inspect and copy all books, ledgers, accounts, correspondence, memoranda and other records and documents in the possession or under the control of such defendant, who may have counsel present, relating to any matters contained in this Final Judgment; and

2. Subject to the reasonable convenience of such defendant and without restraint or interference from it, to interview officers, employees and agents of such defendant, who may have counsel present, regarding any such matters.

B. Upon the written request of the Attorney General or of the Assistant Atttorney General in charge of the

Antitrust Division made to any defendant's principal office, such defendant shall submit such written reports, under oath if requested, with respect to any of the matters contained in this Final Judgment as may be requested.

No information or documents obtained by the means provided in this Section X shall be divulged by a representative of the Department of Justice to any person other than a duly authorized representatives of the Executive Branch of the United States, except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

C. If at the time information or documents are furnished by any defendant to plaintiff, such defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and such defendant marks each pertinent page of such material, "Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of Civil Procedure," then ten days' notice shall be given by plaintiff to defendants prior to divulging such material in any legal proceeding (other than a grand jury proceeding) to which the defendants are not a party.

XI

A. Defendants are hereby enjoined and restrained for a period of three (3) years from the date of divestiture of Terra Aqua from attempting to have any gabion product standard written in a way that would exclude gabions produced by Terra Aqua. Nothing herein, however, shall preclude defendants from recommending that potential customers use specific sizes or types of gabions on specific projects or from competing on the basis of quality.

B. Defendants are hereby enjoined and restrained for a period of one year from the date of divestiture from manufacturing gabions in the States of California, Oregon, Washington, Idaho, Montana, Nevada, Utah, Wyoming, Colorado, Arizona and New Mexico, provided, however, that such injunction shall terminate if the purchaser or purchasers of Terra Aqua manufacture gabions in a location in the United States outside the above states.

C. Defendants are hereby enjoined and restrained for a period of one year from the date of divestiture from offering any employment contract to any officer, director or employee of Terra Aqua who was not an officer, director or employee of the defendants prior to the acquisition of Terra Aqua and who has been offered employment by the purchaser on terms equivalent to or better than those in effect on July 1, 1985.

XII

Jurisdiction is retained by this Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders and directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modification of any of the provisions hereof, for the enforcement of compliance herewith, and for the punishment of any violations hereof.

XIII

This Final Judgment will expire on the tenth anniversary of the date of its entry or upon motion by plaintiff.

XIV

Entry of this Final Judgment is in the public interest.

Dated:

United States District Judge.

Appendix A

Maccaferri Gabion Production Line Components

I. Equipment Used in the Manufacture of Double Twist Hexagonal Wire Mesh

A. *Steel wire payoff frame* for 52 coil payoff, complete with unwinding (swinging) pressure roller pullies, wire guide combs and rollers, wire straighteners attached to connecting bar, electrical ground wiring, receptacle and wiring for butt welding machine, 200 custom-design wire stands and 149 wire stand "top hats", replacement parts, and two motorized hand pallet trucks (BT LIFT modified) for moving and handling wire coils on carriers.

B. *Double twist hexagonal wire mesh making machine* (4.2 m maximum wire mesh width), complete with elevated walkway, extra set of spiral holding tubes, two sets (one spare) of electrical motors and variable speed transmissions, electrical control panel (fully wired) and control sensors. (Custom tools and replacement parts).

C. Steel wire payoff frame for 6 coil payoff, complete with unwinding (swinging) pressure roller pullies, wire guide combs and rollers, wire straighteners attached to connecting bar, electrical ground wiring, receptacle and wiring for butt welding machine. (Replacement parts).

D. Automatic wire spiral making machine for producing spirals used in mesh making machine, complete with gear reducer motor and electrical control panel, various replacement parts, and 28 steel spiral containers (custom-designed) to hold spirals manufactured on the spiral making machine.

E. *butt welder machines* (two machines) for joining the ends of wire used in the mesh making machine, the spiral making machine, the take-up coiler and elsewhere.

F. *Take-Up Coiler* for reclaiming unused ends of wire spirals, complete with gear reducer motor and electrical control panel.

II. Equipment Used in the Production of Gabion Bodies (in Large Panels)

A. *Automatic mesh feeder and cutting machine* (4.2 m maximum wire mesh width) for measuring and cutting wire mesh into panels, complete with fully wired electrical control panel, control sensors, gear reducer motors and two waste wire trays.

B. *Steel conveyer line bench* (8 m x 4.8 m) for moving cut panels to edging machines, complete with electrical gear reducer motor rollers and belts (fully wired). (Replacement belts).

C. *Edging machines for Gabion mesh panels* (two machines) (4.2 m maximum mesh width) for attaching reinforcing selvage wires to two edges of the panels, complete with gear reducer motors and electrical control panels and lubricant tank with submerged pump. (Replacement parts).

III. Equipment Used in the Production of Diaphragm Panels

A. *Automatic mesh feeder and cutting machine* (1.2 m maximum wire mesh width) for measuring and cutting mesh into diaphragms, complete with fully wired electrical control panel, control sensors, gear reducer motors and wire waste tray.

B. *Steel conveyer line bench* (2.5 m x 1.4 m) for moving cut diaphragms to edging machines, complete with gear reducer motor, rollers and belts (fully wired).

C. *edging machine for diaphragm mesh panels* (two machines: 1.2 m maximum wire mesh width, located on-line; 2.1 m maximum wire mesh width, located off-line) for attaching reinforcing selvage wire to one edge of the diaphragm panels, complete with reducer motor, electrical control panel and lubricant tank with submerged pump. (Replacement parts).

D. *Steel diaphragm pallets* (69) (custom designed) to hold diaphragms in stacks.

IV. Equipment Used in the Assembly of Gabions

A. *Machines to open and shape diaphragm edge* (two machines), complete with gear reducer motor and electrical control panel.

B. *Machines to fasten side diaphragm to gabion Body* (two machines), complete with gear reducer motors and electrical control panel (two motors and one control panel for each), and transversal connecting bars. (Replacement parts).

C. *Machines to fasten center disphragms to Gabion body* (three machines), complete with motors and electrical control panel (two motors and one control panel for each), complete payoff stands (three). (Replacement parts).

D. *Wire rod straightener and cutting machine* for making wire reinforcing selvage rods of various lengths, complete with motor, electrical control panel and heavy duty payoff stand (custom made tools and various replacement parts), and 27 steel feed trays of various sizes to contain manufactured selvage wire rods.

V. Equipment Used in Folding, Stacking and Bundling of Finished Gabions

A. *Steel conveyer line benches* (two benches) (4 m x 2 m) for moving completed gabions to the folding station.

B. *Adjustable floor folding pins* (one unit) for holding gabions in position while they are folded.

C. *Calendar machine* for pressing folded gabions, complete with gear reducer motors and mechanical feed bench.

D. *Gabion stacker* for automatically stacking preset number of gabions, complete with gear reducer motors and electrical control panels.

E. *Steel gabion pallets* (10) custom designed to fit into gabion stacker and hold bundles of stacked gabions.

F. *Power stacker* (BT lift) custom built to fit notches on hydraulic press, for lifting and removing custom gabion pallets and gabions from gabion stacker and for moving gabions to hydraulic press, complete with battery charger.

G. *Hydraulic press* for compressing and banding gabion bundles, complete with hydraulic and electrical control panels.

VI. Equipment Used in Production of Wire Mesh in Rolls

A. *Steel wire mesh rolling machines* for accumulating in rolls the output of wire mesh making machine, complete with gear reducer motor, electrical control and payoff stand.

U.S. District Court for the District of Maryland

[Civil Action No. B–86–612]

S.p. A. Officine Maccaferri; Maccaferri Gabions Manufacturing Company, Inc.; and River and Sea Gabions (London) Limited, Defendants.

Competitive Impact Statement

The United States, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act ("APPA"), 15 U.S.C. 16(b)–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I—Nature and Purpose of the Proceeding

On February 24, 1986 the United States filed a civil antitrust complaint under Section 15 of the Clayton Act, 15 U.S.C. 25, challenging the February 15, 1983 acquisition of Terra Aqua Inc. ("Terra Aqua") by S.p.A. Officine Maccaferri ("Officine") through its subsidiary, River and Sea Gabions (London) Limited ("R&S"), as a violation of section 7 of the Clayton Act, 15 U.S.C. 18. Also named in the Complaint was Maccaferri Gabbions Manufacturing Company, Inc. ("MGMC"), which is also controlled by Officine. The Complaint alleges that the effect of the acquisition may be substantially to lessen competition in the United States market for the manufacture and sale of gabions. The Complaint seeks the divestiture of Terra Aqua and a permanent injunction preventing defendants from carrying out any future acquisition of Terra Aqua.

Plaintiff and defendants have stipulated that the proposed Final Judgment may be entered after compliance with the APPA. Entry of the proposed Final Judgment would terminate this action, except that the Court would retain jurisdiction to construe, modify and enforce the proposed Final Judgment and to punish violations of the proposed Final Judgment.

II—Events Giving Rise to the Alleged Violation

On or about February 15, 1983, Officine, through its subsidiary, R&S, acquired all of the capital stock of Terra Aqua for $2.48 million in cash and notes. Prior to its acquisition by R&S, Terra Aqua operated as a division of Bekaert Steel Wire Corporation ("BSWC") and was engaged in the manufacture and sale of gabions from a facility located in Reno, Nevada. At the time of the acquisition, Officine competed directly with Terra Aqua through its subsidiary, MGMC, which manufactures gabions in Williamsport, Maryland.

Gabions are rectangular, compartmented containers fabricated from a triple-twisted hexagonal mesh of heavily galvanized steel wire. Gabions are designed to be filled with hand-size stones and wired together with other gabions to form a monolithic, flexible and permeable structure used in soil conservation and ecology projects. Gabions are also available with an additional polyvinyl chloride coating when they are used in corrosive conditions, such as salt water.

Gabion structures are well suited to soil conservation and ecology projects. Their applications fall within three broad categories: river training and flood control; consolidation and protection from erosion on such projects as roads, railways, airports and parks; and, shore and coastal protection. Gabions have unique uses and characteristics, including flexibility, permeability, durability, versatility and economy which differentiate them from other methods of erosion control.

From 1976 until early 1981, MGMC and BSWC conspired to fix the prices at which they sold gabions in the United States. On March 6, 1985, MGMC pled guilty to a criminal Information charging it with conspiring to fix prices and divide the United States gabion market in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. MGMC and the United States agreed, among other things, to recommend jointly that MGMC be sentenced to pay a $500,000 fine as punishment for that offense. Subsequently, MGMC paid the United States $115,340 in settlement of its claim for civil damages.

On March 8, 1985, BSWC and its Belgian parent company, N.V. Bekaert S.A. ("Bekaert"), were indicted for conspiring to fix prices and divide the United States gabion market in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. On October 16, 1985, BSWC and Bekaert pled guility to the offense charged in the Indictment. Bekaert paid a $300,000 fine and BSWC paid a $325,000 fine. Thereafter, BSWC paid the United States $112,731 in settlement of its claim for civil damages.

Prior to the February 15, 1983 acquisition of Terra Aqua by R&S, the gabion market in the United States was highly concentrated. Officine, through its subsidiary, MGMC, had a market share of approximately 60 percent and Terra Aqua had a market share of approximately 40 percent. As a result of the acquisition of Terra Aqua by R&S, Terra Aqua and MGMC are under the common control of Officine and Officine has acquired a virtual monopoly in the United States gabion market. The

Herfindahl-Hirschman Index, a measure of market concentration calculated by squaring the market share of each firm competing in the market and then summing the resulting numbers, currently approaches 10,000.

Based upon the foregoing and other facts, the Complaint alleges that the manufacture and sale of gabions comprise a relevant market for antitrust purposes, and that the effect of the acquisition may be substantially to lessen competition in the manufacture and sale of gabions in the United States in violation of Section 7 of the Clayton Act.

III—Explanation of the Proposed Final Judgment

Plaintiff and defendants have stipulated that the proposed Final Judgment may be entered by the Court at any time after compliance with the APPA. The proposed Final Judgment constitutes no admission by any party as to any issue of fact or law. Under the provisions of section 2(e) of the APPA, entry of the proposed Final Judgment is conditioned upon a determination by the Court that the proposed Final Judgment is in the public interest.

The proposed Final Judgment requires defendants to divest their entire interest in Terra Aqua, with the exception of certain proprietary equipment installed by Maccaferri in late 1984, absolutely and unconditionally, by their own efforts within six months of the entry of the Final Judgment. If defendants cannot accomplish the required divestiture within the above time period, the proposed Final Judgment provides that, upon application by the plaintiff, the Court shall appoint a trustee who shall sell Terra Aqua.

Terra Aqua must be divested to a purchaser who can and will operate it as a viable, ongoing business that can compete effectively in the gabion market. The purchaser has the option to purchase Terra Aqua's plant in Reno or to remove the production equipment to a location of its choice. The defendants will take all reasonable steps necessary to accomplish divestiture and shall cooperate with bona fide prospective purchasers and the trustee.

If a trustee is appointed, the proposed Final Judgment provides that defendants will pay all costs and expenses of the trustee. The trustee's commission will be structured so as to provide an incentive for the trustee based on the price obtained and the speed with which divestitute is accomplished. If after six months from the date of the trustee's appointment the required divestiture has not been accomplished, the trustee and the parties shall make recommendations to the Court and the Court shall enter such orders as it deems appropriate to effect divestiture.

The proposed Final Judgment provides that before divestiture the defendants must make certain improvements to the machinery that would have been made had defendants not installed proprietary equipment at the plant. Until the required divestiture has been accomplished, the defendants must properly maintain Terra Aqua's production equipment. Defendants are also enjoined from taking any action that would reduce the scope of Terra Aqua's manufacturing or sales operations or product line or that would jeopardize the sale of Terra Aqua as a viable competitor in the manufacturing or sale of gabions. Also, the marketing organizations of Terra Aqua and defendants must be kept separate until divestiture of Terra Aqua is accomplished. Finally, there are post-divestiture restrictions on defendants' ability to manufacture in certain western states, to attempt to have gabion product standards written in such a way as to exclude gabions manufactured by Terra Aqua and to offer employment to Terra Aqua employees.

IV—Remedies Available To Potential Private Litigants

Section 4 of the Clayton Act (15 U.S.C. 15) provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages the person has suffered, as well as costs and reasonable attorney fees. Entry of the Final Judgment will neither impair nor assist the bringing of any private antitrust damages actions. Under the provisions of section 5(a) of the Clayton Act (15 U.S.C. 16(a)), the Final Judgment has no *prima facie* effect in any private lawsuit that may be brought against the defendants.

V—Procedures Available for Modification of the Proposed Final Judgment

As provided by the APPA, any person wishing to comment upon the Final Judgment may within the statutory 60-day comment period submit written comments to John W. Clark, Chief, Professions and Intellectual Property Section, Antitrust Division, United States Department of Justice, Washington, D.C. 20530. These comments and the Department's responses will be filed with the Court and published in the **Federal Register**. All comments will be given due consideration by the Department, which remains free to withdraw its consent to the Judgment at any time prior to entry. The Judgment provides that the Court retains jurisdiction over this action, and any party may apply to the Court for any order necessary or appropriate for its modification, interpretation, or enforcement.

VI—Alternatives to the Proposed Final Judgment

The Government's original divestiture plan included, in addition to what is included in the proposed Final Judgment, gabion production equipment installed by defendants in Reno in late 1984. During negotiations between the Department and defendants it became clear that defendants would not enter into a consent decree that included such a requirement because of the proprietary nature of the machinery. Defendants eventually convinced the Department that the machinery was in fact proprietary, that it was installed to allow defendants to produce a uniform "Maccaferri" gabion and that the Terra Aqua machinery, at the time of its acquisition by R&S, was competitive. To assure the continued competitiveness of the Terra Aqua machinery, however, the proposed Final Judgment provides that, before divestiture, the defendants must make certain improvements to the machinery that would have been made had defendants not installed proprietary equipment at the plant.

An alternative considered by the Department to granting the purchaser of Terra Aqua the option of purchasing the Reno, Nevada land and building in which Terra Aqua's manufacturing facility is located (hereinafter the "Reno Property") was to insist on their divestiture. It was clear to the Department, however, that the gabion production equipment in Reno was readily moveable. Since the gabion market is both small and not well known, the Department believed that there was probably a small group of prospective purchasers. We were, therefore, concerned that requiring the divestiture of the Reno Property, which is worth more than the production machinery, would further limit the number of prospective purchasers. We decided, therefore, not to require the divestiture of the Reno Property, but to give a prospective purchaser the flexibility of either purchasing it or moving the production machinery to a location of its choice.

The Department also considered whether to agree to the defendants' request that a minimum price be set on the Reno Property in the event the purchaser of Terra Aqua decides to

purchase it. The Department usually opposes such requests. In this case, because the value of the real estate is higher than the value of the gabion production machinery, we considered whether a minimum sales price would discourage potential purchasers not interested in producing gabions.

The defendants have subsequently informed the Department, however, that they plan to convert a portion of an existing Terra Aqua debt to a mortgage on the Reno Property. The Department believes that the existence of this assumed liability will effectively discourage a potential purchaser who is not interested in producing gabions from acquiring the Reno Property solely for the purpose of reselling its real property. We decided, therefore, not to accept, and defendants now have withdrawn, the request for a provision setting a minimum price on the Reno Property.

As the proposed decree will completely cure the anticompetitive consequences of the acquisition of Terra Aqua by R&S, the United States believes that entry of the proposed Final Judgment is in the public interest.

VII—Determinative Materials and Documents

There are no materials or documents that the United States considered determinative in formulating this proposed Final Judgment. Accordingly, none are being filed with this Competitive Impact Statement.

Dated: February 24, 1986.

Respectfully submitted,

John F. Greaney, J. Robert Kramer II,
Attorneys, Department of Justice, Antitrust Division, Washington, D.C. 20530, Telephone: 202/724-7469.

Certificate of Service

I hereby certify that I have served the foregoing Competitive Impact Statement upon the following counsel by causing copies thereof to be deposited in the United States mail, postage prepaid, on February 24, 1986:

Jeffrey E. Livingston, Pavia & Harcourt, 600 Madison Avenue, New York, New York 10022

Michael Malina, Kaye, Scholer, Fierman, Hays and Handler, 425 Park Avenue, New York, New York 10022

Phillip R. Malone,
Attorney, Department of Justice.

[FR Doc. 86-4947 Filed 3-6-86; 8:45 am]

BILLING CODE 4410-01-M

DEPARTMENT OF LABOR

Office of the Secretary

Agency Recordkeeping/Reporting Requirements Under Review by the Office of Management and Budget (OMB)

Background: The Department of Labor, in carrying out its responsibilites under the Paperwork Reduction Act (44 U.S.C. Chapter 35), considers comments on the reporting and recordkeeping requirements that will affect the public.

List of recordkeeping/reporting requirements under review: On each Tuesday and/or Friday, as necessary, the Department of Labor will publish a list of the Agency recordkeeping/reporting requirements under review by the Office of Management and Budget (OMB) since the last list was published. The list will have all entries grouped into new collections, revisions, extension, or reinstatements. The Departmental Clearance Officer will, upon request, be able to advise members of the public of the nature of the particular submission they are interested in.

Each entry may contain the following information:

The Agency of the Department issuing this recordkeeping/reporting requirement.

The title of the recordkeeping/reporting requirement.

The OMB and Agency identification numbers, if applicable.

How often the recordkeeping/reporting requirement is needed.

Who will be required to or asked to report or keep records.

Whether small businesses or organizations are affected.

An estimate of the total number of hours needed to comply with the recordkeeping/reporting requirements.

The number of forms in the request for approval, if applicable.

An abstract describing the need for and uses of the information collection.

Comments and questions: Copies of the recordkeeping/reporting requirements may be obtained by calling the Departmental Clearance Officer, Paul E. Larson, Telephone 202-523-6331. Comments and questions about the items on this list should be directed to Mr. Larson, Office of Information Management, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-1301, Washington, D.C. 20210. Comments should also be sent to the OMB reviewer, Nancy Wentzler, Telephone 202-395-6880, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, Washington, D.C. 20503.

Any member of the public who wants to comment on a recordkeeping/reporting requirement which has been submitted to OMB should advise Mr. Larson of this intent at the earliest possible date.

Collection of Information in Current Rules

Occupational Safety and Health Administration, Coke Oven Emissions, OSHA-249, 1218-0010. On occasion; businesses and other for profit; small businesses or organizations; 25 respondents; 108,105 hours; 0 forms.

The purpose of this information collection requirement is to provide protection for employees against the health effects associated with occupational exposure to coke oven emissions. Employers must monitor employee exposure, keep employee exposures within permissible limits and provide employees with medical exams and training.

Signed at Washington, D.C., this 4th day of March 1986.

Harry Echols,
Acting Departmental Clearance Officer.

[FR Doc. 86-5070 Filed 3-6-86; 8:45 am]

BILLING CODE 4510-26-M

Employment and Training Administration

[TA-W-16, 228]

Stackpole Corp.; St. Marys, PA; Dismissal of Application for Reconsideration

Pursuant to 29 CFR 90.18 an application for administrative reconsideration was filed with the Director of the Office of Trade Adjustment Assistance for workers at the Stackpole Corporation, St. Marys, Pennsylvania. The review indicated that the application contained no new substantial information which would bear importantly on the Department's determination. Therefore, dismissal of the application was issued.

TA-W-16,228; Stackpole Corporation, St. Marys, Pennsylvania (February 28, 1986)

Signed at Washington, DC this 28th day of February 1986.

Marvin M. Fooks,
Director, Office of Trade Adjustment Assistance.

[FR Doc. 86-5019 Filed 3-6-86; 8:45 am]

BILLING CODE 4510-30-M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[Docket No. 85-16]

Denial of Application; Michael Alva Marshall, M.D.

On February 22, 1985, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA), issued an order to show cause to Michael Alva Marshall, M.D., of 28509 River Crest drive, Southfield, Michigan 48075 (Respondent) proposing to deny his application for registration as a practitioner under 21 U.S.C. 823(f). The statutory predicate for the proposed action was Respondent's felony conviction on February 3, 1983, of distribution of Percodan, a controlled substance, in violation of 21 U.S.C. 841(a)(1). Respondent, acting *pro se*, requested a hearing on the issues raised in the order to show cause. Administrative Law Judge Francis L. Young thereafter issued an order for prehearing statements. Both sides submitted prehearing statements.

On October 21, 1985, Government counsel filed a motion for summary disposition on the ground that Respondent is not duly authorized to handle controlled substances in the State of Michigan. Respondent was given the opportunity to respond to this motion for summary disposition, but he has not done so. Upon expiration of Respondent's time to respond to the Motion, the Administrative Law Judge held that an evidentiary hearing was not necessary as there were no factual issues to be resolved.

On December 9, 1985, Administrative Law Judge Young issued his opinion and recommended findings of fact, conclusions of law, ruling and decision. No exceptions were filed, and on January 10, 1986, the Administrative Law Judge transmitted the record of these proceedings to the Administrator. The Administrator has considered this record in its entirely and, pursuant to 21 CFR 1316.67, hereby issues his final order in this matter, based upon findings of fact and conclusions of law as hereinafter set forth.

The Administrative Law Judge found that Government counsel learned by affadivit from Ann M. Keilen, Clerk of the Michigan Board of Pharmacy, Department of Licensing, that Michael Alva Marshall, M.D., was ordered to surrender his controlled substance license pursuant to a final order of the Michigan board of Medicine effective February 2, 1983, and that Respondent has not possessed a Michigan controlled substance license since that date. Further, as of October 10, 1985, no application for such a license had been submitted to the Michigan Board of Pharmacy by Respondent. Respondent, therefore, is without authority to manufacture, distribute, prescribe, dispense or possess controlled substances in the State of Michigan. This agency has consistently held that if a registrant or applicant is without authority to handle controlled substances under the laws of the state in which he practices, or proposes to practice, DEA is without statutory authority to issue or maintain a registration. See *Avner Kauffman, M.D.*, Docket No. 85–8, 50 FR 34208 (1985), *Leo M. Mullen, M.D.*, Docket No. 84–7, 50 FR 5827 (1985), *Floyd A. Santner, M.D.*, Docket No. 79–23, 47 FR 51831 (1982). The Controlled Substances Act of 1970 specifically provides that: "Practioners shall be registered to dispense or conduct research with controlled substances. . . if they are authorized to dispense or conduct research under the law of the state in which they practice." 21 U.S.C. 823(f). Since Respondent does not possess a controlled substance license in Michigan, he has no state authority to handle controlled substances. Therefore, a motion for summary disposition is properly entertained and granted.

The Administrative Law Judge notes that the order to show cause does not recite lack of state registration as a ground for the proposed denial of Respondent's application. However, this new ground was clearly set out in the motion for summary disposition and Respondent was given ample time to object to it or state a defense against it. Respondent has not done so. In the circumstances, it would be a needless exercise in formalism to require that the order to show cause be amended, or that a new one be issued.

Judge Young found that the record clearly shows that an evidentiary hearing is not necessary in this case. There is no lawful basis for DEA to grant a registration to Respondent since he has no state license to dispense controlled substances. Therefore, the Administrative Law Judge concluded that Respondent's application for registration should be denied.

The Administrator adopts the Administrative Law Judge's findings of fact, conclusions of law and recommendations in their entirety.

Having concluded that there is no lawful basis for granting Respondent's registration, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 28 CFR 0.100(b), hereby orders that the application for a DEA Certificate of Registration executed by Michael Alva Marshall, M.D., be, and hereby is, denied.

Dated: March 3, 1986.

John C. Lawn,

Administrator.

[FR Doc. 86–4987 Filed 3–6–86; 8:45 am]

BILLING CODE 4410-09-M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal-State Unemployment Compensation Program; Unemployment Insurance Program Letter Interpreting the Work-Training and Work-Relief Exemption

Section 3304(a)(6)(A) of the Federal Unemployment Tax Act (FUTA) requires, as one of several conditions for certain tax credits to employers, that employees of State and local government entities and certain nonprofit organizations be covered by State unemployment insurance (UI) laws. However, section 3309(b)(5), FUTA, permits exemptions from this mandatory coverage requirement for participants in unemployment work-relief and work-training programs.

Questions have arisen several times over the years as to what is and what is not a work-relief or work-training program. Those questions were addressed as they arose but it has become apparent that a more formal statement of the criteria for determining whether a program is work-relief or work-training is needed. Consequently, the Employment and Training Administration (ETA) published a proposed Unemployment Insurance Program Letter (UIPL) in the **Federal Register** July 24, 1985, 50 FR 30249. One of the possible characteristics of an exemptable program inadvertently omitted from the July 24 publication was published in the **Federal Register** on August 9, 1985, 50 FR 32328 and there was a commensurate extension of the 45 days within which written comments were requested and accepted. This final UIPL incorporates, wherever appropriate, changes and improvements submitted in those comments.

The ETA received 5 written responses, consisting of letters, listed below in the order received, from: (1) Illinois Department of Employment Security (IDES), (2) New York Department of Labor (NYDL), (3) Wisconsin Department of Industry, Labor and Human Relations (WDILHR),

(4) Maryland Department of Employment and Training (MDET), and (5) Wisconsin Department of Health and Social Services (WDHSS).

Illinois (IDES) commented that under the Job Training Partnership Act (JTPA) participants placed with governmental or nonprofit employers are exempt from UI coverage while participants placed with private employers are not exempt. A question is raised as to whether individuals placed with private (for-profit) employers may be exempted from coverage by interpretation of section 3309(b)(5), FUTA. Wisconsin (both WDILHR and WDHSS) letters also contained language indicating concerns with the problems of work-relief and work-training program employers.

These concerns are addressed here through a review of the basic considerations:

1. Section 3304(a)(6)(A) requires coverage of employees of State or local governmental entities and certain non-profit organizations, but

2. A State *may* at its option, exempt employees of such employers if the employees are employed only as participants in a work-relief or work-training program which is financed or assisted, in whole or in part, by a Federal, State, or local government agency.

Therefore, the answer to the Illinois question is no—neither section 3304(a)(6)(A), FUTA, nor section 3309(b)(5), FUTA, have any bearing upon UI coverage of employees of private, for-profit employers, either directly or by interpretation.

However, Illinois and Wisconsin comments on the problems of employers (especially JTPA employers) affected do highlight a possible source of some confusion—i.e., including characteristic A.(4.) in a list as though it were on a par with the other 3 characteristics listed. The characteristic stipulated that "the program is financed or assisted in whole or in part by a Federal agency or a State or a political subdivision thereof." This is merely a restatement of certain language in section 3309(b)(5), FUTA, while characteristics (1), (2) and (3) under 4.A. are all based upon a reasonable interpretation of that FUTA provision. Consequently, characteristic A.(4) is deleted and subsection A. is reworded as follows: "In order to qualify for the exemption provided by section 3309(b)(5), FUTA, an unemployment work-relief or work-training program that is financed or assisted in whole or in part by any Federal agency or an agency of a State or a political subdivision of a State, must have as a minimum the following characteristics."

Several other comments were concerned with the minimum characteristics of a work-relief or work-training program listed under Section 4.A. of the proposed UIPL.

Both New York (NYDL) and Wisconsin (WDILHR) are dissatisfied with the phrase "normal economic considerations" under A.(1). New York thinks a more explicit definition necessary and Wisconsin comments that an explanation of the meaning of those terms will probably eliminate misunderstandings about requirements. Accordingly, the paragraph is changed to read as follows: "the employer-employee relationship is based more on the participants' and the communities' needs than on normal economic considerations such as increased demand for a product or service or the filling of a bona fide job vacancy."

Wisconsin (WDILHR) asked for clarification of the phrase under A.(2) "taking into account as indispensable factors the economic and social status of the applicants." Accordingly, the paragraph is changed to read as follows: "(2) qualifications for the jobs take into account as indispensable factors the economic status (i.e., the standing conferred by income and assets) of the applicants." "Social" is deleted because it contributes nothing which cannot be inferred from the words "economic status," a term which is now defined.

Wisconsin (WDILHR) recommended that A.(3) be rewritten so as to require that the services performed by participants *provide* financial assistance, training or work experience. ETA disagrees with this comment because the criteria as stated is basic to distinguishing work-relief and work-training programs from other types of employment. Accordingly, no change has been made.

Some comments were directed to subsection B. which lists four characteristics, one of which must be present in a program for which employment may be exempted from coverage.

Wisconsin (WDILHR) commented that it should not be necessary for a work-training or work-relief program to have any of the characteristics stated under 4.B and the B. should therefore, be rewritten to state that the category B. characteristics *may* be present, rather than that the least one will be present. ETA disagrees. We believe the criteria are broad enough the encompass any bona fide work-relief or work-training program. Accordingly, the requirement that such programs meet one or more of the characteristics has been retained.

Wisconsin (WDILHR) also commented that the meaning of B.(1) is unclear as to whether wages, hours and conditions of work need not be commensurate with those prevailing in the locality. ETA agrees. Accordingly, "necessarily" is deleted from the paragraph.

Wisconsin's (WDILHR) final comment urges discussion of the application of the interpretation of section 3309(b)(5), FUTA, to current Federally funded training and work-relief programs.

Since States under JTPA have considerable latitude in establishing programs, it is not possible to make a blanket statement that all JTPA-funded work-relief or work-training programs meet the criteria for exemption. But it is clear that the criteria apply to all government-assisted work-training or work-relief programs.

Mayland (MDET) commented that the following should be added to 4.B.(2) ". . . and there is little likelihood they will be continued when the program is discontinued." The final UIPL contains the suggested change.

Finally, Wisconsin's Department of Health and Social Services (WDHSS) stated that it shared the concerns of the State's Department of Industry, Labor, and Human Relations; those concerns have been addressed above. Another concern of the WDHSS is what constitutes public financing for work-relief and work-training programs. It is not appropriate here to do more than quote from section 3309(b)(5), FUTA: ". . . assisted or financed in whole or in part. . . ." What constitutes partial assistance or financing will have to be determined on a case-by-case basis, according to the facts of each case.

The UIPL published below takes effect upon publication.

Dated: February 26, 1986.

Roger D. Semerad,

Assistant Secretary of Labor.

Unemployment Insurance Program Letter No. 15–86—All State Employment Security Agencies

Barbara Ann Farmer, Acting Administrator for Regional Management

Interpretation of Section 3309(b)(5), FUTA, Work Relief or Work-Training Program Exceptions to Section 3304(a)(6)(A), FUTA, Coverage Requirement

1. *Purpose.* To provide an interpretation of Section 3309(b)(5) of the Federal Unemployment Tax Act (FUTA) which permits an exception to coverage requirements of section 3304(a)(6)(A), FUTA, for services performed as part of an unemployment

work-relief or work-training program by individuals receiving such work-relief or work-training.

2. *References.* Sections 3304(a)(6)(A), 3309(a), 3309(b)(5), 3306(c)(7), and 3306(c)(8) of the Federal Unemployment Tax Act (FUTA).

3. *Background.* Section 3304(a)(6)(A), FUTA, requires State unemployment insurance (UI) laws to provide for coverage of services to which section 3309(a)(1), FUTA, applies. Section 3309(a)(1), FUTA, applies to services performed for certain nonprofit organizations and to practically all services for State and local government entities, with certain permitted exceptions to both requirements. Section 3309(b)(5), FUTA, states one of those exceptions. If an unemployment work-relief or work-training program is assisted or financed in whole or in part by any Federal agency or an agency of a State or a political subdivision of a State, then services performed as part of such programs by individuals receiving work-relief or work-training *may* be exempted by State law from the mandatory UI coverage requirement. States are not precluded from covering such services; they are simply not required to provide such coverage in their laws as a condition for conformity with section 3304(a)(6)(A), FUTA. Over the years, questions have arisen many times about what constitutes a work-relief or work-training program for purposes of this exemption. State legislation has sometimes presented potential issues based on an incomplete understanding of the work-relief exemption. It is apparent that an interpretation of the exemption provided by section 3309(b)(5), FUTA, is needed.

4. *Interpretation.* As Federal law provides, an unemployment work-relief or work-training program must be assisted or financed in whole or in part by a Federal or State agency or a political subdivision of a State before services performed by individuals receiving such work relief or work training may be exempted from coverage.

A. In order to qualify for the exemption provided by section 3309(b)(5), FUTA, an unemployment work-relief or work-training program that is financed or assisted in whole or in part by any Federal agency or an agency of a State or a political subdivision of a State, must have as a minimum the following characteristics:

(1) The employer-employee relationship is based more on the participant's and communities' needs than normal economic considerations such as increased demand or the filling of a bona fide job vacancy;

(2) Qualifications for the jobs take into account as indispensable factors the economic status, i.e., the standing conferred by income and assets, of the applicants;

(3) The products or services are secondary to providing financial assistance, training, or work-experience to individuals to relieve them of their unemployment or poverty or to reduce their dependence upon various measures of relief, even though the work may be meaningful or serve a useful public purpose.

B. Such an unemployment work-relief or work-training program will also have one or more of the following characteristics:

(1) The wages, hours, and conditions of work are not commensurate with those prevailing in the locality for similar work;

(2) The jobs did not, or rarely did, exist before the program began (other than under similar programs) and there is little likelihood they will be continued when the program is discontinued;

(3) The services furnished, if any, are in the public interest and are not otherwise provided by the employer or its contractors; and

(4) The jobs do not displace regularly employed workers or impair existing contracts for services.

5. *Action Required.* State employment security agencies should take the actions appropriate to assure that the State's UI law is consistent with Federal requirements as interpreted herein.

6. *Inquiries.* Direct questions to the appropriate regional office.

[FR Doc. 86-5020 Filed 3-6-86; 8:45 am]
BILLING CODE 4510-30-M

Employment Standards Administration, Wage and Hour Division

Minimum Wages for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basis hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR Part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494), as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR Part 1, Appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedeas decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR Parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR Part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts," shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for

consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S-3504, Washington, DC 20210.

New General Wage Determination Decisions

The numbers of the decisions being added to the Government Printing Office document entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" are listed by Volume, State, and page number(s).

Volume II.

New Mexico
NM86-3..... pp. 660a-660f.

Modifications to General Wage Determination Decisions

The numbers of the decisions listed in the Government Printing Office doucment entitled "General Wage Determinations Issued Under the Davis-Bacon and Related Acts" being modified are listed by Volume, State, and page number(s). Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I.

Connecticut:
CT86-1 (Jan. 3, 1986)..... p. 67.
Maryland:
MD86-1 (Jan. 3, 1986)..... p. 384.
New York:
NY86-10 (Jan. 3, 1986)..... p. 725.
Pennsylvania:
PA86-2 (Jan. 3, 1986)..... pp. 804, 806, pp. 811-812.
Pennsylvania:
PA86-5 (Jan. 3, 1986)..... pp. 831-832.
Pennsylvania:
PA86-8 (Jan. 3, 1986)..... pp. 859-860.
Pennsylvania:
PA86-9 (Jan. 3, 1986)..... p. 872.
Pennsylvania:
PA86-11 (Jan. 3, 1986)..... p. 885.
Pennsylvania:
PA86-12 (Jan. 3, 1986)..... p. 887.
Pennsylvania:
PA86-16 (Jan. 3, 1986)..... p. 904.
Pennsylvania:
PA86-17 (Jan. 3, 1986)..... pp. 908-910.
Pennsylvania:
PA86-19 (Jan. 3, 1986)..... p. 922.
Pennsylvania:
PA86-20 (Jan. 3, 1986)..... pp. 927-931.
Pennsylvania:
PA86-22 (Jan. 3, 1986)..... pp. 943-945.
Pennsylvania:
PA86-23 (Jan. 3, 1986)..... pp. 948, 950.
Virginia:
VA86-5 (Jan. 3, 1986)..... pp. 1065-1066.
Virginia:
VA86-15 (Jan. 3, 1986)..... pp. 1089-1090.

Volume II.

Iowa:
IA86-3 (Jan. 3, 1986)..... p. 35.
Iowa:
IA86-5 (Jan. 3, 1986)..... pp. 45-46.
Indiana:
IN86-6 (Jan. 3, 1986)..... pp. 286-299.
Kansas:
KS86-6 (Jan. 3, 1986)..... pp. 327-328.
Kansas:
KS86-8 (Jan. 3, 1986)..... pp. 336-337.
Michigan:
MI86-2 (Jan. 3, 1986)..... pp. 400-402.
Michigan:
MI86-5 (Jan. 3, 1986)..... p. 429.
Missouri:
MO86-1 (Jan. 3, 1986)..... pp. 540-541, pp 543-544, pp. 553, 557.
New Mexico:
NM86-2 (Jan. 3, 1986)..... pp. 655-660.
Ohio:
OH86-2 (Jan. 3, 1986)..... p. 681.
Ohio:
OH86-3 (Jan. 3, 1986)..... p. 698.
Ohio:
OH86-29 (Jan. 3, 1986)..... pp. 757-766, pp 768-770, pp. 772-773, p. 783.
Oklahoma:
OK86-13 (Jan. 3, 1986)..... pp. 821-822, p. 826.
Oklahoma:
OK86-14 (Jan. 3, 1986)..... pp. 831-832.
Texas:
TX86-14 (Jan. 3, 1986)..... p. 881
Listing by Decision (Index):. p. lliii.
Listing by Location (Index):. pp. xxx, xxxvi, p. xxxvii.

Volume III.

California:
CA86-4 (Jan. 3, 1986)..... pp. 64,69.
Nevada:
NV86-2 (Jan. 3, 1986)..... pp. 236-239.
Utah:
UT86-1 (Jan. 3, 1986)..... pp. 282, 294.
Washington:
WA86-1 (Jan. 3, 1986)..... pp. 319-321.
Washington:
WA86-2 (Jan. 3, 1986)..... pp. 328-329, p. 334.

Supersedeas Decisions to General Wage Determination Decisions

The numbers of the decisions being superseded and their dates of notice in the **Federal Register** are listed with each State. Seuersedeas decision numbers are in parentheses following the number of the decision being superseded.

Indiana:
IN81-2038 (IN86-15)..... June 26, 1981.

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled "General Wage Determinations Issued Under The Davis-Bacon And Related Acts". This publication is available at each of the 80 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country. Subscriptions may be purchased from: Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 783-3238.

When ordering subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the three separate volumes, arranged by State. The subscription cost is $277 per volume. Subscriptions include an annual edition (issued on or about January 1) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates will be distributed to subscribers.

Signed at Washington, DC this 28th day of February 1986.

James L. Valin,

Assistant Administrator.

[FR Doc. 86-4768 Filed 3-6-86; 8:45 am]

BILLING CODE 4510-27-M

Occupational Safety and Health Administration

South Carolina Standards; Approval

I. Background.

Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667) (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On December 6, 1972, notice was published in the **Federal Register** (37 FR

25932) of the approval of the South Carolina plan and the adoption of Subpart C to Part 1952 containing the decision.

The South Carolina plan provides for the adoption of Federal standards as State standards after public hearing. Section 1953.20 of 29 CFR provides that "When . . . any alteration in the Federal program could have an adverse impact on the 'at least as effective as' status of the State program, a program change supplement to a State plan shall be required." By letter dated September 11, 1984 from Edgar L. McGowan, Commissioner, South Carolina Department of Labor, to Alan C. McMillan, Regional Administrator, and incorporated as part of the plan, the State submitted the following amended State standards comparable to Federal Standards: 29 CFR 1910.1047, Ethylene Oxide (49 FR 25738), dated June 22, 1984; 29 CFR 1910.19(h), Special Provisions for Air Contaminants, Ethylene Oxide (49 FR 25738), dated June 22, 1984; Deletion in Table Z-1 of 29 CFR 1910.1000, Ethylene Oxide (49 FR 25738), dated June 22, 1984.

These standards were promulgated after public hearings held on August 14, 1984 and filed with the South Carolina Secretary of State August 14, 1984, pursuant to Act 379, South Carolina Acts and Joint Resolutions, 1971 (sections 40-261 through 40-274 South Carolina Code of Laws, 1962).

By letter dated October 23, 1985 from Edgar L. McGowan, Commissioner, South Carolina Department of Labor, to Alan C. McMillan, Regional Administrator, and incorporated as a part of the plan, the State submitted the following amended State standards comparable to Federal Standards: 29 CFR 1910.243(e)(1)(i), (e)(3)(vii), and (e)(4)(vi), Guarding of Portable Powered Tools, Power Lawnmowers (50 FR 4649), dated February 1, 1985; 29 CFR 1910.1047(m), Ethylene Oxide, dates (50 FR 9801), dated March 12, 1985; 29 CFR 1910.1047(j)(1)(iii), Ethylene Oxide (50 FR 12828), dated April 1, 1985; Appendix B to Subpart T, 29 CFR Part 1910, Guidelines for Scientific Diving (50 FR 1050), dated January 9, 1985.

These standards were promulgated after public hearings held on September 10, 1985 and filed with the South Carolina Secretary of State October 17, 1985 pursuant to Act 379, South Carolina Acts and Joint Resolutions, 1971 (sections 40-261 through 40-274 South Carolina Code of Laws, 1962).

2. Decision

Having reviewed the State submission in comparison with the Federal standards, it has been determined that the State standards are identical to the Federal standards.

The state standards are hereby approved.

3. Location of Supplement For Inspection And Copying

A copy of the standards supplement along with the approved plan may be inspected and copied during normal business hours at the following locations: Office of the Commissioner of Labor, South Carolina Department of Labor, 3600 Forest Drive, Columbia, South Carolina 29211; Office of the Regional Administrator, Suite 587, 1375 Peachtree Street, NE., Atlanta, Georgia 30367; and Director of Federal State Operations, Room N3700, 200 Constitution Avenue, NW., Washington, DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds good cause exists for not publishing the supplement to the South Carolina State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reasons:

1. The standards are essentially identical to the comparable Federal standards and are deemed to be at least as effective.

2. The standards were adopted in accordance with procedural requirements of State Law and further participation would be unnecessary.

This decision is effective March 7, 1986.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667))

Signed at Atlanta, Georgia, this 16th day of January, 1986.

Alan C. McMillan,

Regional Administrator.

[FR Doc. 86-5016 Filed 3-6-86; 8:45 am]

BILLING CODE 4510-26-M

Wyoming State Standards; Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On May 3, 1974, notice was published in the **Federal Register** (39 FR 15394) of the approval of the Wyoming Plan and adoption of Subpart BB to Part 1952 containing the decision.

The Plan provides for the adoption of Federal Standards as State Standards by:

1. Advisory Committee coordination.

2. Publication in newspapers of general/major circulation with a 45-day waiting period for public comment and hearings.

3. Adoption by the Wyoming Health and Safety Commission.

4. Review and approval by the Governor.

5. Filing with Secretary of State and designation of an effective date.

OSHA regulations (29 CFR 1943.22 and 1953.23) require that States respond to the adoption of new or revised permanent Federal standards by State promulgation of comparable standards within six months of OSHA publication in the **Federal Register**, and within 30 days for emergency temporary standards. Although adopted State standards or revisions to standards must be submitted for OSHA review and approval under procedures set forth in Part 1953, they are enforceable by the state prior to federal review and approval. By letter dated December 23, 1985, from Donald D. Owsley, Administrator, Wyoming Occupational Health and Safety Division, to Byron R. Chadwick, OSHA Regional Administrator, the State submitted rules and regulations in response to Federal OSHA's General Industry Standards (29 CFR 1910.1000: Air Contaminants, and 29 CFR 1910.1047: Ethylene Oxide, 49 FR 122, Friday, June 23, 1984).

The above adoptions of Federal standards have been incorporated in the State Plan, and are contained in the Wyoming Occupational Health and Safety Rules and Regulations for General Industry, as required by Wyoming Statute 1977, section 27-11-105(a)(viii). In addition, the standards were published in newspapers or general/major circulation throughout the State pursuant to the Wyoming Administrative Procedures Act 1977, section 16-3-103(a)(1).

State standards for 29 CFR Part 1910: Air Contaminants and Ethylene Oxide were adopted by the Health and Safety Commission of Wyoming on November

9, 1984 (effective January 3, 1985) pursuant to Wyoming statute 1977, section 27–11–105. The State standard on Air Contaminants is substantially identical to the federal standard action, with the only exception being paragraph numbering. Wyoming's Air Contaminant Substance list at their Chapter VII, section 1, is also identical to the Federal Standard. The State's Ethylene Oxide Standard of substantially identical, with the exception of paragraph numbering and location of the requirement to provide the examining physician and the employees of information of Federal Appendices A, B, and C. Rather than this requirement being noted within the body of the standard to follow the Federal format, Wyoming has placed this requirement within the Appendices. Also, the State's delayed effective date(s) in its standard are different from the Federal dates(s). Since the Wyoming engineering controls implementation date has passed, there is no negative impact on the State program that requires corrections.

2. Decision

The above State Standards have been reviewed and compared with the relevant Federal Standards. OSHA has determined that the State Standards are at least as effective as the comparable Federal Standards, as required by section 18(c)[2) of the Act. OSHA has also determined that the differences between the State and Federal Standards are minimal and that the Standards are thus substantially identical. OSHA therefore approves these standards; however, the right to reconsider this approval is reserved should substantial objections be submitted to the Assistant Secretary.

3. Location of Supplement for Inspection and Copying

A copy of the standards supplements, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Room 1576, Federal Office Building, 1961 Stout Street, Denver, Colorado 80294; the Occupational Health and Safety Department, 604 East 25th Street, Cheyenne, Wyominng 82002; and the Office of State Programs, Room N–3700, 200 Constitution Avenue, NW., Washington, DC 20210.

4. Public Participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplements to the Wyoming State Plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason:

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious. This decision is effective March 7, 1986.

(Sec. 18, Pub. Law 91–596, 84 Stat. 1608 [29 U.S.C. 667]).

Signed at Denver, Colorado, this 21st day of January, 1986.

Byron R. Chadwick,

Regional Administrator.

[FR Doc. 86–5017 Filed 3–6–86; 8:45 am]

BILLING CODE 4510–26–M

Wyoming State Standards; Notice of Approval

1. Background

Part 1953 of Title 29, Code of Federal Regulations, prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called the Regional Administrator) under delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary), (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State Plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On May 3, 1974, notice was published in the **Federal Register** [39 FR 15394) of the approval of the Wyoming Plan and adoption of Subpart BB to Part 1952 containing the decision.

The Plan provides for the adoption of Federal Standards as State Standards by:

1. Advisory Committee coordination.
2. Publication in newspapers of general/major circulation with a 45-day waiting period for public comment and hearings.
3. Adoption by the Wyoming Health and Safety Commission.
4. Review and approval by the Governor.
5. Filing with Secretary of State and designation of an effective date.

OSHA regulations (29 CFR 1953.22 and 1953.23) require that States respond to the adoption of new or revised permanent Federal standards by State promulgation of comparable standards within six months of OSHA publication in the **Federal Register**, and within 30 days for emergency temporary standards. Although adopted State standards or revisions to standards must be submitted for OSHA review and approval under procedures set forth in Part 1953, they are enforceable by the state prior to federal review and approval. By letter dated July 19, 1985, from Donald D. Owsley, Administrator, Wyoming Occupational Health and Safety Division, to Byron R. Chadwick, OSHA Regional Administrator, the State submitted rules and regulations in response to Federal OSHA's General Industry Standards (29 CFR 1910.243: Power Lawnmowers; Amendments, 50 FR 4648, February 1, 1985).

The above adoptions of Federal standards have been incorporated in the State Plan, and are contained in the Wyoming Occupational Health and Safety Rules and Regulations for General Industry, as required by Wyoming Statute 1977, section 27–11–105(a)(viii). In addition, the standards were published in newspapers of general/major circulation throughout the State pursuant to the Wyoming Administrative Procedures Act 1977, section 16–3–103(a)(1).

State standards for 29 CFR 1910.243: Power Lawnmowers; Amendment was adopted by the Health and Safety Commission of Wyoming on September 13, 1985 (effective November 12, 1985) pursuant to Wyoming statute 1977, section 27–11–105. The State standard on Power Lawnmower; Amendment is identical to the federal standard action, with the only exception being paragraph numbering.

2. DECISION

The above State Standard has been reviewed and compared with the relevant Federal Standard and OSHA has determined that the State Standard is at least as effective as the comparable Federal Standard, as required by section 18(c)(2) of the Act. OSHA has also determined that the differences between the State and Federal Standards are minimal and that the Standards are thus substantially identical. OSHA therefore approves this standard.

3. Location of Supplement for Inspection and Copying

A copy of the standard supplement, along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Room 1576, Federal Office Building, 1961 Stout Street,

Denver, Colorado 80294; the Occupational Health and Safety Department, 604 East 25th Street, Cheyenne, Wyoming 82002; and the Office of State Programs, Room N-3700, 200 Constitution Avenue, NW., Washington, DC 20210.

4. Public participation

Under 29 CFR 1953.2(c), the Assistant Secretary may prescribe alternative procedures to expedite the review process or for any other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplements to the Wyoming State Plan as proposed changes and making the Regional Administrator's approval effective upor publication for the following reason(s):

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious. This decision is effective March 7, 1986.

(Sec. 18, Pub. L. 91-596, 84 Stat. 1608 (29 U.S.C. 667)).

Signed at Denver, Colorado, this 14th day of December, 1985.

Harry C. Borchelt,

Acting Regional Administrator.

[FR Doc. 86-5018 Filed 3-6-86; 8:45 am]

BILLING CODE 4510-26-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 86-16]

National Commission on Space; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the National Commission on Space.

DATE AND TIME: March 13-14, 1986, 8:30 a.m. to 5:30 p.m. each day.

ADDRESS: 490 L'Enfant Plaza East SW., Washington, DC 20024.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Hartman, National Commission on Space, Suite 3212, 490 L'Enfant Plaza East SW., Washington, DC 20024 (202/453-8685).

SUPPLEMENTARY INFORMATION: The National Commission on Space was established to study existing and proposed U.S. space activities; formulate an agenda for the U.S. civilian space program; and identify long-range goals, opportunities, and policy options for civilian space activity for the next 20 years. The Commission, chaired by Dr. Thomas O. Paine, consists of 15 voting members.

The meeting must be held at this time in order to meet the publishing deadline of the final report. This is the earliest opportunity to assemble the Commissioners subsequent to the distribution of the final draft report for review. The meeting will be closed to the public in order to control the premature disclosure of information in the case of the Commission report that would likely to significantly frustrate the implementation of the proposed Commission action pursuant to the exemption contained in 5 U.S.C. 552b(c)(9)(b).

Type of meeting: Closed.

Dated: February 28, 1986.

Richard L. Daniels,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 86-4937 Filed 3-6-86; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL FOUNDATION ON ARTS AND HUMANITIES

National Endowment for the Arts; Media Arts Advisory Panel; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Media Arts Advisory Panel (Film/Video Production Section) to the National Council on the Arts will be held on March 24-26, 1986 from 9:00 a.m. to 6:00 p.m., Room 716 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW, Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

March 3, 1986.

[FR Doc. 86-5004 Filed 3-6-86; 8:45 am]

BILLING CODE 7537-01-M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Qualifications Review Panel for the Position of Director, John Fitzgerald Kennedy Library; Meeting

Notice is hereby given that the Qualifications Review Panel for the Position of Director, John Fitzgerald Kennedy Library, will meet on Monday, March 24, 1986, at 10:30 a.m. at the Kennedy Library, Columbia Point, Boston, Massachusetts.

The agenda for the meeting will be:

1. Discuss personnel procedures leading to the selection of the Director.

2. Propose individuals who might be solicited to apply for the position.

3. Discuss qualifications of those who have applied for the position.

The meeting will be closed to the public in accordance with 5 U.S.C. 552b(6) in order to avoid unwarranted invasion of the personal privacy of the applicants.

Dated: March 5, 1986.

Frank G. Burke,

Acting Archivist of the United States.

[FR Doc. 86-5127 Filed 3-6-86; 8:45 am]

BILLING CODE 7515-01-M

NUCLEAR REGULATORY COMMISSION

Documents Containing Reporting or Recordkeeping Requirements; Submitted for Office of Management and Budget Review

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of the Office of Management and Budget review of information collection.

SUMMARY: The Nuclear Regultory Commission has recently submitted to the Office of Management and Budget (OMB) for review the following proposal for the collection of information under the provisions of the Paperwork Reducation Act (44 U.S.C. Chapter 35).

1. Type of submission, new, revision or extension: New.

2. The title of the information collection: Survey of Licensees Possessing Strategic Special Nuclear Material.

3. The form number if applicable: Not applicable.

4. How often the collection is required: One time.

5. Who will be required or asked to report: Nonpower reactor licensees, including research, test, and critical facilities, and certain other research licensees, possessing strategic special nuclear material.

6. An estimate of the number of responses: 33.

7. An estimate of the total number of hours needed to complete the requirement or request: 264.

8. An indication of whether section 3504 (h), Pub. L. 96-511 applies: Not applicable.

9. Abstract: The Nuclear Regulatory Commission will survey nonpower reactor and certain other licensees to evaluate plans for reduction quantities of strategic special nuclear material stored at sites and to evaluate the need for additional physical protection measures.

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 Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland, this 4th day of March 1986.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 86-5053 Filed 3-6-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket Nos. 50-369 and 50-370]

Duke Power Co. and McGuire Nuclear Station, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of partial exemption from the requirements of Appendix J to 10 CFR Part 50 to Duke Power Company (the licensee) for the McGuire Nuclear Station, Units 1 and 2, located in Mecklenburg County, North Carolina.

Environmental Assessment

Indentification of Proposed Actions: Section III C.2(a) of Appendix J to 10 CFR Part 50 which addresses the test pressure to be used in the performance of local leak rate tests provides: "Valves, unless pressurized with fluid (e.g., water, nitrogen) from a seal system, shall be pressurized with air or nitrogen at a pressure of Pa." The proposed exemption from Section III C.2(a) would allow performance of the local leak rate test for the ice condenser refrigeration system without draining the gylcol from the seats of the diaphragm valves at the mechanical containment penetrations. The proposed exemption and the bases thereto, are in accordance with the licensee's letters dated September 24, 1985 and February 14, 1986.

The Need for the Proposed Actions: The proposed exemption would reduce the downtime for the ice condenser refrigeration system, which maintains the temperature and mass of the ice bed at acceptable levels. The exemption would also reduce the amount of toxic waste (approximately 200 gallons of glycol for each McGuire unit) which might otherwise require disposal.

Evironmental Impacts of Proposed Actions: The proposed exemption would provide for the substitution of an alternate test for the mechanical containment penetration diaphragm valves in the ice condenser refrigeration system. The proposed test procedure includes a glycol leakage rate acceptance criterion on those diaphragm valves of zero indicated leakage (not including instrument error). We find that a valve meeting a zero leakage criterion using glycol would allow no leakage of containment atmosphere. If the leak rate using glycol should be found to be greater than zero, the penetration would then be fully drained and the valves leak tested in accordance with Appendix J. Thus, performing the local leakage rate test on these penetrations without fully draining them would not compromise containment integrity. Plant operation with the exemption would be at least as safe as requiring compliance with the leak testing requirement of the regulations. The probability of an accident would not be increased and the post-accident radiological releases would not be greater than previously detemined, nor would the proposed exemption otherwise affect radiological plant effluents, nor result in any significant occupational exposure. Likewise, the exemption would not adversely affect non-radiological plant effluents or have other adverse environmental impact. Therefore, the Commission concludes that there would be no significant radiological or non-radiological environmental impacts associated with the proposed exemption.

Alternative to the Proposed Actions: Because we have concluded that there would be no significant adverse environmental impact associated with the proposed exemption, any alternative to this exemption would have either no environmental impact or greater environmental impact.

The principal alternative would be to deny the requested exemption. Such action would not reduce environmental impacts of plant operation but would increase the amount of toxic waste (glycol) requiring disposal. Also, denial of the exemption would require the ice condenser refrigeration system to be down for 24 to 36 hours which has a potential negative impact on the mass of ice in the ice bed.

Alternative Use of Resources: This action does not involve the use of resources not previously considered in connnection with the "Final Environmental Statement Related to Operation of McGuire Nuclear Station," dated April 1976.

Agencies and Persons Consulted: The NRC staff reviewed the licensee's requests that support the proposed exemption. The NRC staff did not consult other agencies or persons.

Finding of No Significant Impact

Based upon the foregoing environmental assessment, we conclude that the proposed exemption will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed exemption.

For further details with respect to the proposed actions, see the licensee's requests for exemption dated September 24, 1985, and February 14, 1986, which are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Dated at Bethesda, Maryland, this 4th day of March 1986.

For the Nuclear Regulatory Commission.

Darl Hood, Acting Director,

PWR Project Directorate No. 4, Division of PWR Licensing-A, NRR.

[FR Doc. 86-5054 Filed 3-6-86; 8:45]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards, Ad Hoc Subcommittee on TVA; Meeting

The ACRS Ad Hoc Subcommittee on TVA will hold a meeting on March 27, 1986, Room 1046, 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: *Thursday, March 27, 1986—8:30 a.m. until the conclusion of business.*

The Subcommittee will discuss TVA reorganization and related technical and management issues.

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. Anthony 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: March 3, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86–5058 Filed 3–6–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket No. 50–416]

Mississippi Power & Light Co., Middle South Energy, Inc. and South Mississippi Electric Power Association; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF–29, issued to Mississippi Power & light Company, Middle South Energy, Inc., and South Mississippi Electric Power Association (the licensees), for operation of the Grand Gulf Nuclear Station, Unit 1, located in Claiborne County, Mississippi.

The amendment would change a Technical Specification surveillance requirement for the heaters in the standby gas treatment system (SGTS). To demonstrate operability of the SGTS, the heaters would be required to dissipate 48±5.0 KW instead of the presently required 50±5.0 KW when tested in accordance with Technical Specification 4.6.6.3.d.5 This change was requested in the licensees' application for amendment dated February 17, 1986.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations. One of the examples (vi) is a change which may reduce a safety margin, but where the results of the change are clearly within acceptable criteria with respect to the component specified in the Standard Review Plan (SRP) (NUREG–0800).

The SRP Section 6.5.1 "ESF Atmospheric Cleanup Systems" states in relevant part that systems such as the SGTS are acceptable if they meet the guidelines of Regulatory Guide 1.52. The relevant recommendation in Regulatory Guide 1.52 is that the heater should be designed to reduce the relative humidity of the air flowing through the SGTS from 100% to 70% under design basis accident conditions. The licensee has determined in its submittal of February 17, 1986 that a heater dissipating 21.5 KW will meet the design recommendation in Regulatory Guide 1.52. The staff concludes, based on a preliminary review of the licensees' submittal that the small change in the minimum heater dissipation requirement (from 45 KW to 43 KW) is clearly within the relevant criterion in the Standard Review Plan. Therefore, the proposed change is similar to Example vi. Accordingly, the Commission proposes to determine that this change does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Comments may also be delivered to Room 4000, Maryland National Bank Building, Bethesda, Maryland, from 8:15 a.m. to 5:00 p.m. Monday through Friday. Copies of comments received may be examined at the NRC Public Document Room, 1717 H Street, NW., Washington, DC.

By April 7, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing

Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW, Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addresed to Walter R. Butler: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Nicholas Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 Seventeenth Street NW., Washington, DC 20036, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Dated at Bethesda, Maryland, this 3rd day of March 1986.

For the Nuclear Regulatory Commission.

Walter R. Butler,

Chief, BWR Project Directorate No. 4, Division of BWR Licensing.

[FR Doc. 86–5056 Filed 3–6–86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-323]

Pacific Gas and Electric Co., Diablo Canyon Nuclear Power Plant, Unit 2; Exemption

I

Pacific Gas and Electric Company (the licensee) holds Facility Operating License No. DPR–82, which authorizes operation of the Diablo Canyon Nuclear Power Plant, Unit No. 2 (the facility or Diablo Canyon 2) at power levels not in excess of 3411 megawatts thermal. This license provides, among other things, that the facility is subject to all rules, regulations, and Orders of the Nuclear Regulatory Commission (the Commission) now or hereafter in effect.

The facility is a pressurized water reactor located on the licensee's site in San Luis Obispo County, California.

II

Section 50.46(a)(1) to 10 CFR Part 50 requires, in part, that for a reactor its ECCS cooling performance shall be calculated in accordance with an acceptable evaluation model. Furthermore, § 50.46 to 10 CFR Part 50 requires that the calculated maximum fuel element cladding temperature or peak cladding temperature (PCT) shall not exceed 2200° F.

III

By letter dated February 21, 1986 the licensee requested an Exemption from the requirement of 10 CFR 50.46(a)(1) identified in II above for a temporary relief to complete the ECCS cooling performance calculations for Diablo Canyon 2 using plant specific data and actual operating conditions with an approved ECCS evaluation model in

order to verify that the calculated peak cladding temperature (PCT) for Diablo Canyon 2 does not exceed the criterion of 2200° F specified in 10 CFR 50.46(b). In an earlier letter dated February 14, 1986 the licensee had informed the staff that the calculated ECCS cooling performance for Diablo Canyon 2, as discussed in the Final Safety Analysis Report (FSAR), is not based on the actual operating conditions for the facility. The letter provided substantial information demonstrating the safe operation of Diablo Canyon 2 under those conditions as discussed below.

The large break ECCS analysis for Diablo Canyon 2, as documented in FSAR Section 15.4.1, was performed with the Westinghouse 1978 Evaluation Model. It resulted in a peak cladding temperature of 2187° F. The analysis was based on the nominal average reactor coolant temperature, Tavg, of 577.6° F, a heat flux hot channel factor, Fq, of 2.32, and a discharge coefficient, Cd, of 0.8. The Diablo Canyon 2 startup testing has shown that there is little or no steam generator heat transfer fouling. Consequently the licensee has projected that the reactor coolant system (RCS) will operate more efficiently at a Tavg of 572° F. Westinghouse sensitivity studies using the approved 1978 Westinghouse ECCS Evaluation Model show that operation at a Tavg of 572° F could result in a PCT increase of 20° F, causing the peak cladding temperature to exceed the 2200° F limit specified in 10 CFR 50.46(b) by as much as 7° F.

The change in the PCT with a variation in Tavg was the subject of many discussions between the staff and Westinghouse in mid-1977. It was found that a decrease in Tavg could result in either an increase of decrease of PCT. Therefore, the staff concluded that plant specific analyses should be performed for the nominal Tavg for the plant under evaluation.

Since the staff approval of the 1978 Westinghouse Evaluation Model, the staff has approved a new Westinghouse analytical method, called BART, for reflooding calculations. This model describes the LOCA phenomena in a more mechanistic way. The 1978 Evaluation Model uses empirical correlations to calculate reflooding heat transfer. The BART method models the heat transfer and fluid flow processes during reflood, including entrainment and deentrainment of droplets, the heat transfer at the quench front and, as an option, the effect of spacer grids. Because BART is more mechanistic, calculations made with an evaluation model including BART show increased margin to the peak cladding temperature limit.

Westinghouse has informed the licensee that a reanalysis of the PCT for Diablo Canyon 2 using the BART Model is expected to result in a decrease in peak clad temperature of 70° F or more. This is supported by analyses done for other Westinghouse four-loop plants designed and operated similarly to Diablo Canyon 2. While the magnitude of this margin differs from plant to plant, the staff agrees that an analysis of the large break LOCA for Diablo Canyon 2 using the BART model would demonstrate sufficient margin to accommodate the 7° F by which the 1978 analysis would exceed the 10 CFR 50.46(b) peak cladding temperature limit using actual plant operating conditions. In addition, there is no reason to expect that the other criteria of 10 CFR 50.46 in terms of cladding oxidation and long term cooling would not continue to be met.

To provide further assurance that Diablo Canyon 2 will continue to meet the PCT criterion of 10 CFR 50.46(b), the licensee has limited the heat flux hot channel factor, Fq, by administrative control to a value of 2.30, which is a reduction of 0.02 in Fq units from the value of 2.32 used in Technical Specification 3.2.2. The licensee has revised the applicable operating procedures for Diablo Canyon 2 which implement the Technical Specifications to ensure that the appropriate action statements in Technical Specification 3.2.2 will be implemented if Fq has a value of 2.30 or greater. Diablo Canyon 2 currently is operating with a measured Fq of less than 2.00. The licensee has stated that using the 1978 Evaluation Model, this decrease of 0.02 in Fq would result in a reduction of the calculated PCT of approximately 20° F. These results are based upon sensitivity studies performed by Westinghouse with the 1978 Model and are consistent with previous analyses reviewed by the staff for other facilities.

Based on the above discussion, the licensee's proposed reanalysis of the calculated ECCS cooling performance with the more recent BART Model and using actual plant operating conditions, in conjunction with the interim reduction of the heat flux hot channel factor, Fq, to a value of 2.30 under administrative control is acceptable. This is a one-time only exemption for temporary relief from the requirement of 10 CFR Part 50, § 50.46(a)(1) regarding the plant specific ECCS cooling performance calculated with an approved model. The staff also finds acceptable the schedule proposed by the licensee in the February 21, 1986 letter to complete the reanalysis by July 25, 1986 and to submit the results to the staff no later than August 19, 1986.

IV

Accordingly, the Commission had determined that, pursuant to 10 CFR 50.12, this exemption is authorized by law, will not present an undue risk to the public health and safety, and is consistent with the common defense and security. The Commission further determines that special circumstances, as provided in 10 CFR 50.12(a)(2)(ii), are present justifying the exemption, namely that application of the regulation in the particular circumstance for the short period involved is not necessary to achieve the underlying purpose of the regulation to assure the integrity of the fuel cladding in the event of a postulated design basis LOCA by requiring that the peak cladding temperature as calculated with an approved model and using appropriate plant conditions does not exceed the 2200 °F limit specified in 10 CFR 50.46(b). Specifically, based on the discussion above and on its experience with the BART Model as applied to similarly designed and operating four-loop Westinghouse plants, the staff concludes that requiring the shutdown of the facility solely to perform a reanalysis confirming these results on a plant specific basis for Diablo Canyon Unit 2 is not necessary for this temporary period. The licensee has demonstrated a good faith effort to achieve compliance by: promptly informing the staff upon notification by Westinghouse of the discrepancy between system preformance and the model assumption; by immediately directing Westinglhouse to perform necessary studies to assess the safety significance of this difference; and by requesting Westinghouse to provide as promptly as possible a revised plant specific analysis using an improved Westinghouse ECCS evaluation model.

Accordingly, the Commission hereby grants an exemption as described in Section III above from 10 CFR 50.46(a)(1), provided:

1. Heat flux hot channel factor, Fq, shall not exceed 2.30.

2. All other operating conditions shall conform with the requirements of License No. DPR–82 and the associated Technical Specifications.

3. The Licensee shall complete a revised plant specific ECCS analysis for Diablo Canyon Unit 2, in accordance with the schedule stated in its letter of February 21, 1986 and shall not submit the results of such analysis no later than August 20, 1986.

Pursuant to 10 CFR 51.32, the Commission has determined that the granting of this Exemption will have no significant impact on the environment (February 28, 1986, 51 FR 7160).

This exempiton is effective upon issuance.

Dated at Bethesda, Maryland, this 3rd day of March 1986.

For the Nuclear Regulatory Commission.

Thomas M. Novak,

Acting Director, Division of PWR Licesnsing-A.

[FR Doc. 86-5055 Filed 3-6-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-338]

Virginia Electric and Power Co., et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. NPF-4, issued to Virginia Electric and Power Company and Old Dominion Electric Cooperative (the licensee), for operation in the North Anna Power Station, Unit No. 1 (NA-1) located in Louisa County, Virginia, in accordance with the licensee's application for amendment dated January 17, 1986.

The proposed change would allow 7 percent Steam Generator (SG) tube plugging levels at NA-1 to support power operation at the currently licensed reactor thermal power of 2775 Megawatts thermal (MWt). The currently approved level for SG tube plugging is 5%.

Recent eddy current inspections of the NA-1 SG tubes indicated a need to plug additional tubes beyond the Fuel Cycle 5 level of 3.17%. The plugging level was increased to 3.89% during the recent NA-1 Cycle 5 to Cycle 6 refueling outage. Since it is possible that future eddy current inspections may require that the plugging level be increased to a level beyond the currently approved 5% limit, the licensee has provided an evaluation of the impact on Loss-of-Coolant Accidents (LOCA) and non-LOCA analyses at higher levels of SG tube plugging up to 7%.

Since sufficient tube plugging can reduce primary system flow, result in more severe pump coastdown characteristics, and reduce the primary system volume, the impact of tube plugging on non-LOCA transient analyses was previously evaluated by the licensee and submitted to the NRC by letter dated February 12, 1982. The evaluation provided a conservative estimate of actual Reactor Coolant System (RCS) flowrate versus SG tube plugging level for NA-1&2. The evaluation showed that at 7% tube plugging the primary system flowrate would still be more than 2.5% greater than the current NA-1&2 thermal design flow. Thus the current licensing analyses, in which flowrate is an important concern (DNB limited events), remain valid at 7% plugging. Seven percent SG tube plugging results in a 3% change in the total loop resistance. The evaluation indicated that this change would have a minimal impact on the pump coastdown curve. Also, the evaluation determined that 7% steam generator tube plugging would reduce the RCS volume by 2% and this would reduce the dilution time by 2%. However, during dilution events it was determined that sufficient time (approximately 60 minutes) remained to criticality to allow operator action.

The currently docketed analysis is based on a SG tube plugging level of 5%. A new LOCA analysis has recently been submitted by the licensee to the NRC (by letter dated May 2, 1985) in support of the Phase 3 NA-1&2 core uprate program which assumes a SG tube plugging level of 7%. This analysis, which is being submitted by the licensee to support the proposed change for 7% SG tube plugging at the currently licensed thermal power level for NA-1, bounds the currently licensed design conditions for NA-1.

The primary conservatisms in the new LOCA analysis are the higher reactor power and the lower reactor coolant flow, both of which tend to increase the peak clad temperature during a LOCA. The 50 pounds per square inch absolute (psia) reduction in steam pressure and the one degree difference in vessel average coolant temperature are shown to have a minor impact on peak clad temperature. Previous experience has shown that the effects of the power and RCS flow will dominate the other differences to produce a conservative peak clad temperature. Therefore, operation at the current licensed reactor thermal power of 2775 MWt will be bounded by the results of the uprated analysis when operating at the FQ limit (2.15) determined from the new analysis.

Three aspects must be considered when evaluating the effect of steam generator tube plugging level on small break LOCA transients. They are reduced heat transfer area, the increased initial temperature difference between the primary and secondary side and the countercurrent flow limit (CCFL). Since only a small portion of the steam generator heat transfer area is required to provide an effective heat sink during a small break transient, plugging some steam generator tubes will not affect small break LOCA transients in view of the available heat transfer area. The increased temperature difference between the primary and secondary side disappears immediately after the break when the secondary side pressur reaches the steam generator safety valve setpoint and therefore, has no impact on the peak clad temperature for small levels of steam generator tube plugging (up to approximately 20%). Since the plugging levels will not exceed 7%, there will be no impact on small break LOCA and the currently approved small break LOCA analysis (Section 15.3.1 of the NA-1&2 Updated Final Safety Analysis Report) remains bounding.

The Commission has made a proposed determination that the request for amendment involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a signficant reduction in a margin of safety. Specifically, as discussed above, the proposed change will not increase the probability of occurrence or consequences of any malfunction or accident previously addressed. The re-analyzed large break LOCA analysis, which is attached, shows that operation under the revised specifications would not result in any increase in accident consequences. The analysis assumptions for the remainder of the UFSAR Chapter 15 transient analyses have not changed and they remain bounding. Also, new accident types or equipment malfunction scenarios will be introduced as a result of operating in accordance with the revised specifications. And, finally, the margin of safety, as defined in the basis for the affected Technical Specifications, is not reduced. Operation at the lower FQ limit will not reduce the margin to the LOCA acceptance limits. Therefore, based on these considerations and the criteria given above, the Commission has made a proposed determination that the amendment request does not involve a significant hazards consideration.

The Commission is seeking public comments on this proposed determination. Any comments received

within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comments should be addressed to the Rules and Records Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

By April 7, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Request for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularly the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which mush include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specifity. Contentions shall be limited to matters within the scope of the amendments under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If a final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to Lester S. Rubenstein: (petitioner's name and telephone number), (date petition was mailed), (plant name), and (publication date and page number of this **Federal Register** notice). A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to Michael W. Mauphin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212, attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board designated to rule on the petition and/or request, that the petitioner has made a substantial showing of good cause for the granting of a late petition and/or request. That determination will be based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment dated January 17, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia, 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Dated at Bethesda, Maryland, this 3rd day of March, 1986.

For the Nuclear Regulatory Commission.

Lester S. Rubenstein,

Director, PWR Project Directorate No. 2, Division of PWR Licensing-A, Office of Nuclear Reactor Regulation.

[FR Doc. 86–5057 Filed 3–6–86; 8:45 am]

BILLING CODE 7590-01-M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Losses and Goals Advisory Committee; Meeting

AGENCY: The Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council).

ACTION: Notice of meeting.

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Losses and Goals Advisory Committee to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C Appendix I, 1–4. Activities will include:

- Contributions issue review.
- Hydropower obligation issue scoping.
- Other.
- Public comment.

DATE: March 17, 1985. 9:30 a.m.

ADDRESS: The meeting will be held at the Council's Meeting Room, 850 S.W. Broadway, Suite 1100, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: John Marsh, 503–222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 86–4954 Filed 3–6–86; 8:45 am]

BILLING CODE 0000–00–M

POSTAL SERVICE

Postal Rates, Fees, and Mail Classifications; Adjustment of Preferred Rates of Postage

On February 4, 1986, the Governors of the Postal Service announced that the preferred rates of postage might change on March 9, 1986, and that they were considering implementing one of two sets of rates. Their action took into account the original reductions in revenue forgone appropriations which have already been enacted plus further reductions contemplated under the Balanced Budget and Emergency Reduction Act, commonly known as Gramm-Rudman-Hollings. The Governors of the Postal Service on March 4, 1986, adoped Resolution 86–6, adjusting preferred rates of postage to the levels shown in the attached schedules. The new rates will be effective at 12:01 a.m. on March 9, 1986.

W. Allen Sanders,

Associate General Counsel, Office of General Law and Administration.

Preferred Rate Schedule

Table of Contents

SCHEDULE 1.—SECOND-CLASS PREFERRED RATE: IN-COUNTY

Rate category	Preferred rate (cents)
Pound-rate matter:	
Per pound	9.3
Per piece	
Presorted to carrier route	3.2
Other	5.0

SCHEDULE 2.—SECOND-CLASS PREFERRED RATE: PUBLICATIONS OF AUTHORIZED NONPROFIT ORGANIZATIONS, OUTSIDE COUNTY

Rate category	Postage rate unit	Preferred rate (cents)
Non-Advertising	Pound	8.6
Advertising:		
1 and 2	do	11.5
3	do	12.8
4	do	14.8
5	do	17.9
6	do	21.2
7	do	25.0
8	do	28.4
Pieces:		
A	Piece	8.8
B	do	6.2
C	do	4.3
SCF difference	do	−1.0

SCHEDULE 3.—SECOND-CLASS PREFERRED RATE: CLASSROOM PUBLICATIONS

Rate category	Postage rate unit	Preferred rate (cents)
Non-Advertising	Pound	7.6
Advertising:		
1 and 2	do	10.1
3	do	11.2
4	do	13.2
5	do	16.3
6	do	19.5
7	do	23.2
8	do	26.7
Piece: A	Piece	6.7
SCF difference	do	−1.0

SCHEDULE 4.—SECOND-CLASS PREFERRED RATE: REGULAR-RATE PUBLICATIONS OUTSIDE COUNTY

Rate category	Postage rate unit	Preferred rate (cents)
Science of Agriculture		
Advertising zones 1 and 2	Pound	11.5
SCF difference	Piece	−1.0
Limited circulation		
A	Piece	9.0
B	do	6.4
C	do	4.5
SCF difference	do	−1.0

SCHEDULE 5.—THIRD-CLASS PREFERRED RATE: NONPROFIT BULK

Rate category	Preferred rate (cents)
Minimum per-piece rate:	
Required presort	8.7
Presorted to 5-digit ZIP	7.2
Presorted to carrier route	5.7
Pound rate:	
Required presort	25.9
Plus per piece	3.0
Presorted to 5-digit ZIP	25.9
Plus per piece	1.5
Presorted to carrier route	25.9

SCHEDULE 6.—FOURTH-CLASS PREFERRED RATE: LIBRARY

Rate category	Preferred rate (cents)
First pound	55
Each additional pound through 7 pounds	19
Each additional pound	10

[FR Doc. 86–5028 Filed 3–6–86; 8:45 am]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–22960; File No. SR–CBOE–85–22]

Self-Regulatory Organizations; Chicago Board Options Exchange, Inc.; Order Granting Accelerated Approval to Proposed Rule Change

On January 27, 1986, the Chicago Board Options Exchange, Incorporated ("CBOE" or "Exchange"), submitted to the Securities and Exchange Commission ("Commission"), pursuant to Section 19(b)(1) under the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] Amendment No. 2 to

[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1985).

a proposed rule change providing that the Exchange's Order Support System ("OSS") be utilized to route orders on options on stocks selected by the Exchange to printers at trading posts for handling by floor brokers.

The proposed rule change was noticed in Securities Exchange Act Release No. 22879 (February 7, 1986), 51 FR 5624 (February 14, 1986). No comments were received on the proposed rule change.[3]

The proposal to grant CBOE the discretion to select those options for which OSS may be utilized is an amendment to a previous proposal which would have permitted the electronic routing of OSS-eligible options orders on over-the-counter stocks to a printer at the trading post for direct representation by floor brokers in the trading crowd. The proposal as originally submitted to the Commission was not approved in order that the CBOE could clarify how the process would work. This amendment to the proposed rule change is intended to broaden the options classes where the crowd printer may be used, and to describe more fully how the process will operate.

OSS currently allows a firm's public customer orders to be routed either to the book or the firm's booth. The proposed rule change provides a third alternative for orders on options on stocks selected by the Exchange by permitting member firms to have an OSS order print at the trading crowd when the parameters do not allow the order to be accepted by the book.[4] Under the proposed rule change, member firms will have the ability to set individual parameters for routing orders to the book, the printer at the crowd, or the firm's booth on the floor; or to set one parameter for routing orders to the book with all other orders directed either to the crowd printer or the firm's booth.

The CBOE believes that the proposed rule change will expedite both the delivery of orders and fill reporting. The Commission concurs with the CBOE in this belief and finds therefore, that the proposed rule change is consisent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6 [5] and the rules and regulations thereunder.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of the proposal in the **Federal Register** in that the CBOE would like to make the efficiencies of the system available to member firms at the earliest possible date, and initially will limit the availability of the proposed enhancements to OSS to four posts on the trading floor.[6] Moreover, although the filing as originally submitted to, and noticed by, the Commission contemplated the use of direct routing to the trading crowd in certain options classes, the Commission did not receive any comment on that proposal.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[7] that the proposed rule change is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[8]

Dated: February 28, 1986.

John Wheeler,

Secretary.

[FR Doc. 86-5049 Filed 3-6-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-22959; File No. SR-NYSE-85-47]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Order Approving Proposed Rule Change

I. Introduction

On December 31, 1985, the New York Stock Exchange, Inc. ("NYSE") submitted for Commission consideration, pursuant to Rule 19b-4 under the Securities Exchange Act of 1934 ("Act"), comprehensive amendments to the NYSE Constitution. The proposed amendments will result in a significant re-organization in the current Exchange Constitution, including numerous drafting changes, deletions of outdated provisions[1] and placement of several existing constitutional provisions into the NYSE's rules.[2] The Exchange states that a substantial majority of the changes are intended primarily to streamline, update, or clarify the current Exchange Constitution, and do not represent major substantive revisions.[3]

In addition to the drafting and organizational changes, several significant changes to the NYSE's governance procedures have been proposed:

(1) The composition of the NYSE Board of Directors would be modified to: (a) Increase the size of the Board from 20 to 24 (12 public directors and 12 industry directors), as well as a Chairman, Executive Vice Chairman, and a President (the latter two positions are not required to be filled); (b) provide that at least one public director must be associated with an NYSE listed company, and at least one must be associated with a financial institution that is a significant investor in equity securities; (c) provide that, of the 12 industry directors, three must be registered as NYSE specialists, one must be associated with an NYSE specialty firm, and one must be an NYSE floor broker; and (d) change the eligibility requirements for industry or public directors on the NYSE Board.

(2) Future NYSE electronic access members would not be permitted to vote at any NYSE election or on any matter requiring a membership vote, with current electronic access members retaining their ½ vote.

(3) The Exchange would delete an existing provision prohibiting participation by a person in any matter in which he is personally interested.

The Commission regards the proposed constitutional revisions as appropriate. The Commission, however, has determined to take no action on the

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[3] SR-CBOE-85-22 and Amendment No. 1 to the rule filing were noticed in Securities Exchange Act Release No. 22105 (May 31, 1985), 50 FR 24073.

[4] The current parameters for determining acceptance of an order by the book will remain unchanged.

[5] 15 U.S.C. 78f (1982).

[6] Expansion of the system to additional trading crowds is dependent on the success of the project in initial crowds. *See* letter dated February 24, 1986, to Eneida Rosa, Branch Chief, SEC, from Frederic M. Krieger, Associate General Counsel, CBOE.

[7] 15 U.S.C. 78s(2)(1982).

[8] 17 CFR 200.30-3)á—)12—)1985).

[1] For example, many of the provisions in Article III of the current NYSE Constitution concerning the powers of the Board of Directors have been deleted in the proposed revised Constitution's Article IV (Board of Directors). Provisions governing Board procedures, contracts of employment, the Board's control of the finances of the Exchange and its authority to buy and sell real estate were deleted as unnecessary. The Board has inherent authority to act in such situations and its power to purchase or sell real property is governed by state law.

[2] For example, provisions governing arbitration procedures contained in Article XIII of the current Constitution have been deleted from the proposed revised Constitution's Article XI. Those procedures will be included in the NYSE's rules and filed with the Commission as proposed rule changes in the near future.

[3] Notice of this proposed rule change together with the terms of substance of the proposed rule change was given in Securities Exchange Act Release No. 22768 (January 6, 1986), 51 FR 1461 (January 13, 1986). No comments were received on this proposal, although the NYSE supplemented its filing by submitting two letters. *See* Letter to Michael Cavalier, Branch Chief, Division of Market Regulation, from James E. Buck, Secretary, New York Stock Exchange, Inc., dated February 6, 1986 (hereafter "February 6, 1986 letter") and letter from James E. Buck to Michael Cavalier, dated February 19, 1986 ("February 19, 1986 letter").

These amendments were submitted to the Exchange membership for approval on December 20, 1985, and were approved by a vote of 861 to 25.5.

proposed deletion of the provision in Article III, Section 2, paragraph 7 of the current Constitution relating to conflicts of interest by board members. The Commission believes that retention of such a provision, which is not otherwise explicitly included in the proposed NYSE Constitution or current NYSE rules, is critical. In response to a request from the Commission staff, the NYSE has committed to propose at the next meeting of its membership an amendment to the NYSE Constitution reinserting this conflicts of interest provision.[4]

II. Proposed Constitutional Amendments

Section 19(b) of the Act provides that, to be approved by the Commission, a proposed rule change must be consistent with the requirements of the Act and the rules and regulations thereunder. Section 6(b) of the Act sets forth the general requirements for exchange rules. Section 6(b)(3) of the Act requires exchange rules to "assure a fair representation of its members in the selection of its directors and administration of its affairs." Section 6(b)(3) also requires that the exchange "provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer." Section 6(b)(5) requires that exchange rules promote just and equitable principles of trade and that they not be designed to permit unfair discrimination between issuers, brokers, or dealers. Section 6(b)(7) requires that exchange rules provide a fair procedure for the disciplining of members and persons associated with members. Section 6(b)(8) prohibits any exchange rule from imposing any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

The Commission believes that the changes made in the proposed revised Constitution have resulted in a more streamlined and efficient document. Provisions which were eliminated generally were either redundant, outdated, were clearly implied in other provisions, or could be dealt with in the NYSE's rules. The drafting changes condensed and clarified the wording of the parallel provisions in the current Constitution. The reorganization of the Constitution served primarily to provide a more topical placement of functionally related provisions.

In regard to the three specific changes highlighted above, the Commission believes that the change in the number and composition of directors on the NYSE's Board of Directors and the elimination of voting rights for new electronic access members are reasonable and appropriate changes by the Exchange and has determined to approve them. As noted above, however, the Commission is not taking action in this order with respect to the deletion in Article III, Section 2, paragraph 7 of the current Constitution relating to conflicts of interest; the NYSE has indicated to the Commission that it will propose to reinsert this provision at the NYSE's next membership vote.[5]

A. Composition of NYSE Board of Directors

1. Description of Changes

Under Article II of the current NYSE Constitution, the Board of Directors is composed of 20 directors elected by members of the Exchange,[6] 10 of whom are public directors (not affiliated with brokers or dealers in securities) and 10 of whom are members or allied members of the Exchange. In addition, the Chairman (the Chief Executive Officer of the Exchange) is elected by the Board. The Board also may elect an Executive Vice Chairman, and the Chairman may appoint a President.

Under Article IV, Section 2 of the proposed revised Constitution, the size of the Board of Directors would be increased by 4 to a total of 24 directors plus the Chairman, Executive Vice Chairman and President (if the latter two positions are filled).[7] The 24 directors would include 12 public directors and 12 industry directors. At least one public director must be associated with an NYSE-listed issuer; at least one other public director must be associated with a financial institution that is a significant investor in equity securities.[8] The 12 industry directors would be required to come from the following industry categories: 7 directors from firms doing a public business (including 5 based in the New York City metropolitan area and 2 from outside New York), 3 NYSE specialists, 1 from a specialty firm based in the New York area, and 1 floor broker.[9]

As in the current Constitution, each year half of the Board of Directors, (i.e., six public directors and six industry directors) are elected. The revised Constitution designates each year's group of 12 elected directors as a class whose terms of office expire in alternate years.

The proposed amendments would revise the notice requirements for Board meetings to provide that notice be given no later than five (rather than the current two) days before the meeting or will be given by electronic means. The quorum requirement would be increased from six Board members to a majority of the entire Board.[10]

The proposed revised Constitution also changes the eligibility requirements for industry and public directors. Article II of the current NYSE Constitution requires that an industry director be a member or allied member [11] of the Exchange who is a principal executive officer and a director of a member corporation, a member of the managing committee or a principal partner of a member firm, or a member of the Exchange who does not hold voting stock in a member firm and who is not a partner in a member firm. Article I, Section 3(q) of the proposed revised Constitution would also make eligible a general partner of a member firm who has primary executive responsibilities, as well as the chief executive officer, a principal executive officer, or a director of a member corporation.

Under Article II of the current NYSE Constitution public directors are not permitted to be affiliated with brokers

[4] *See* February 6, 1986 letter. In a February 24, 1986, telephone conversation between Brandon Becker, Assistant Director, Division of Market Regulation, and James C. Buck, Secretary, NYSE, the NYSE agreed to the Commission's determination to take no action with respect to deletion of the conflict of interest provision.

[5] *See* February 6, 1986 letter.

[6] A class of five public and five industry directors is elected each year.

[7] Under Article II of the current Constitution, the Chairman and Executive Vice Chairman are prohibited from engaging in other business during their incumbency. This prohibition would be removed under proposed Article IV, Section 2(a).

[8] *See* Article IV, Section 2(a) of the proposed Constitution. The proportion of public directors under the revised Constitution would increase from 43% to 44% of the total Board (assuming an Executive Vice Chairman and President were sitting).

[9] *See* Article IV, Section 2(b) of the proposed Constitution. Article II of the current Constitution is somewhat less structured. It provides that the 10 industry directors include 4 from firms doing a public business (including 2 from the New York area) and at least 2 NYSE specialists. Not more than 3 industry directors may spend a substantial part of their time on the NYSE floor.

[10] *See* Article IV, Section 5 of the proposed Constitution.

[11] Under Article I, Section 3(c) of the proposed revised Constitution, an "allied member" means (i) a general partner in a member firm, or an employer who controls a member firm, who is not a NYSE member, or (ii) an employer of a member corporation who is not an exchange member and who is either (a) a principal executive officer of such corporation, or (b) a person who controls such corporation.

or dealers in securities. Article I, Section 3(r) of the proposed revised Constitution would add a definition of affiliations as being where a "person is a partner, officer, employee or director of such broker or dealer, or controls such broker or dealer, or is an officer of employee of a person, one of the significant subsidiaries of which is such broker or dealer." The proposal also would bar from a public director position any person who is an employee of an issuer of securities that are admitted to dealings on the Exchange unless that person is the chief executive officer or a principal officer of such issuer at the time of their first election to the Board as a public director.

2. Discussion

The change in the size and makeup of the NYSE Board of Directors retains the current balance between public and industry directors, thus retaining the essential input and representation of the interests of issuers, users and members in decisions affecting the operation of the Exchange.[12] The requirement that at least one public director be associated with a corporation that is not a financial institution and is the issuer of securities that are admitted for dealings on the Exchange and that at least one other public director be associated with a financial institution that is a significant investor in equity securities serves to ensure a minimum level of representation for these two important constituencies. In this regard, the Commission also notes that under the NYSE proposal the level of public director representation will remain equivalent to industry representation, and that the proportionate representation of public directors will actually increase slightly. In addition, amendments to Article IV, Section 2(b) of the proposed Constitution providing for one specialty firm industry director and one floor broker industry director impose additional representation requirements that are appropriate to ensure minimal representation by important Exchange constituencies.

The new definition of public director loosens the provisions which bar brokers or dealers or their affiliated persons generally from becoming public directors on the NYSE Board. The proposed revised Constitution would retain the general prohibition,[13] but would, according to the interpretation provided by the Exchange, permit to become a public director of the NYSE Board either (i) an outside director of a parent corporation with a broker dealer subsidiary, or (ii) an officer or employee of a corporation with a broker-dealer subsidiary, so long as it is not a significant subsidiary.[14]

The Commission recognizes that, in revising the eligibility requirements for public directors, the Exchange seeks to enable persons who have strong qualifications as public representatives but who may also be indirectly affiliated with a broker-dealer to become public directors. This is, in part, a response to the increasing proliferation of corporate subsidiaries which conduct some broker or dealer activity in the course of their business. We do not regard the presence of such individuals to be inconsistent with the *per se* section 6(b)(3) requirement of public representation on the boards of exchanges. The legislative history makes it clear that the level of public representatives— particularly on an exchange such as the NYSE with 50% public directors—is a flexible standard. In the Commission's view, however, the NYSE's decision to have multiple public directors does not relieve the NYSE from the basic requirement in section 6(b)(3) that at least one of their public directors have no association with a broker or dealer as that term is defined in section 3(a)(18).

The Commission has serious reservations as to whether the proposed definition is consistent with the standard in section 3(a)(18) of the Act defining persons associated with a broker or dealer.[15] In the Commission's view, it is questionable whether the statutory definitions will permit directors of corporations with "significant" broker or dealer subsidiaries or officers or employees of parent corporations with "non-significant" broker-dealer subsidiaries to be deemed not to be associated persons of a broker-dealer.

The requirements of this provision were intended to assure a fair representation of exchange members, issuers of securities listed on the exchange, and the public.[16] However, beyond the minimum level of one or more public directors required under section 6(b)(3), the question of the actual number of public representatives on the board of an exchange was left to each exchange and the Commission.[17]

In response to discussions between the Commission staff and the NYSE on this matter, the NYSE submitted a letter from the Exchange stating that it would ensure that at least one of the public directors will conform to this standard.[18] This letter also stated that the NYSE would base its definition of the term "significant subsidiary" on the definition of that term contained in Rule 405 of the Securities Act of 1933.[19] In addition, under the Board's authority to interpret the terms of the Constitution, the Exchange staff has stated that in considering the definition of the term "significant" the Board would independently consider the size of the subsidiary and the nature of its activities, for purposes of determining whether it was a significant subsidiary, regardless of the 10% standard in Rule 405.[20] In light of this commitment by the

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[12] The NYSE and the American Stock Exchange, Inc. ("Amex") far exceed the minimum public director representation under section 6(b)(3) of the Act, which requires that "one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer." Both exchanges have equal numbers of public and industry directors. The Boston Stock Exchange ("BSE") has 3 public governors (13.6% of the Board), the Midwest Stock Exchange ("MSE") has 8 (29.7%), the Pacific Stock Exchange ("PSE") has 3 (16.8%), and the Philadelphia Stock Exchange ("Phlx") has 3 (10%).

[13] Article I, Section 3(r) of the proposed revised Constitution provides in pertinent part:

[a] person shall be considered to be affiliated with a broker or dealer in securities if such person is a partner, officer, employee or director of such broker or dealer, or controls such broker or dealer, or is an officer or employee of a person, one of the significant subsidiaries of which is such broker or dealer.

[14] The NYSE has stated that "significant" subsidiary is intended to comport with the definition of "significant subsidiary" in Rule 405 of the Securities Act of 1933 (*i.e.*, over 10% of the parent).

[15] The term "person associated with a broker or dealer" is defined in section 3(a)(18) of the act to include "any partner, officer, director, or branch manager of such broker or dealer (or any person occupying a similar status or performing similar functions), any person directly or indirectly controlling, controlled by, or under common control with such broker or dealer, or any employee of such broker or dealer. . . ."

[16] *See* H. Rep. No. 94–123, at 60 (April 7, 1975).

[17] *Id.*, at 61.

[18] *See* February 19, 1986 letter. The NYSE stated that it would comply with the requirements of section 6(b)(3) of the act and that, as a matter of course, several of the NYSE's public directors have no affiliation with a broker or dealer.

[19] Rule 405 provides, generally, that a significant subsidiary is one where: (1) The investment in and advances to the subsidiary by the parent corporation and its other subsidiaries are over 10% of the total consolidated assets of the parent corporation and its other subsidiaries; (2) the share of the total assets of the subsidiary by the parent corporation and its other subsidiaries exceeds 10% of the total consolidated assets of the parent corporation and its other subsidiaries; or (3) the income from the subsidiary exceeds 10% of the consolidated income of the parent corporation and its other subsidiaries.

[20] For example, a large broker-dealer, even if a subsidiary of a major national corporation, still could be regarded as a significant subsidiary regardless of whether it met the test established under Rule 405. Telephone conversation on

Continued

NYSE, the Commission regards the new definition of industry and public directors as satisfying both the basic requirements of section 6(b)(3) and the provision's overall objective in seeking to ensure substantial public representation on the governing boards of the exchanges.[21] The Commission, therefore, concludes that the proposed amendments to Article IV are consistent with section 6(b)(3) of the Act.

B. Voting Rights for Electronic Access Members [22]

1. Description of Change

The current NYSE Constitution, Article IX, Section 1(c), provides for a membership class which is entitled to have electronic or telephonic access to the floor facilities of a member and access to the Designated Order Turnaround ("DOT") System of the Exchange.[23] Such members are entitled under Article VII, section 10(c) of the current Constitution to one half vote on each position to be filled in the election of Directors and on other matters at meetings of members of the Exchange. These members are required to pay annual dues and hold no equity interest in the Exchange.

Under the proposed NYSE Constitution, Article II, Section 1(c), electronic access members would remain a member class of the Exchange with the same level of access to NYSE facilities. Moreover, current electronic access members who remain in good standing would, under Article III, Section 9(b), retain their one half vote on the election of NYSE Directors and other matters presented at meetings of members. Under Article III, Section 9(c), however, an electronic access member who becomes a member on or after the "effective date" [24] would have no vote in any election or on any matter at any meeting of the exchange.

2. Discussion

The NYSE has indicated that it anticipates a large increase in the number of broker-dealers desiring direct access to the NYSE's "new and enhanced electronic order routing and execution systems." It believes that a substantial number of new electronic access memberships may add depth and liquidity to the Exchange's market. In light of the potential admission of a significant number of new electronic access members, who have no equity interest in the exchange and whose membership is of limited duration, the Exchange believes it is not "necessary or appropriate for the new electronic access members to be given the right to vote." [25]

The Exchange asserts that section 6(b)(3) of the Act, requiring that the rules of an exchange provide fair representation of its menbers in the election of directors and the administration of an exchange, does not require that all categories of members be given full voting rights. It states that the requirement of section 6(b)(3) is met when equity members of the Exchange are provided full voting rights and physical access members are given partial voting rights.[26]

In its 1978 order approving the NYSE's proposal creating a class of electronic access membership, the Commission recognized that the voting rights of electronic access and regular seat-holders would not be co-extensive, but concluded that electronic access members with only ½ of a vote would be accorded "fair representation in the selection of directors and administration

February 24, 1986, between Brandon Becker, Assistant Director, Division of Market regulation, and James C. Buck, Secretary, NYSE.

[21] In two recent actions, the Commission has addressed issues of proportional representation on the boards of directors of exchanges. The Commission disapproved a proposal by the CBOE (Securities Exchange Act Release No. 22058 (May 21, 1985), 50 FR 23090) which would have increased the minimum number of On-Floor Directors. The Commission noted that domination by the floor membership of the CBOE Board and a resulting decrease in the proportion of retail firm and public governors on the Board would have seriously weakened the ability of the Board to carry out the purposes of the Act and enforce compliance with Exchange and Commission rules, as required by section 6(b)(1). In addition, the Commission stated that the numerical domination by one faction of the CBOE membership, in contravention of Section 6(b)(3), might make it difficult for the Board to act in the best interests of the public or the CBOE as a whole and could impede efforts by the Board to vigorously enforce Commission or Exchange rules not favored by the floor membership. The Commission also viewed the proposal as being inconsistent with section 6(b)(5) which requires the rules of an exchange to be designed to protect investors and their public interest.

Subsequently, in Securities Exchange Act Release No. 22728 (December 19, 1985), 50 FR 53051, File No. SR–Phlx–85–23, the Commisison approved a proposal by the Phlx to amend its by-laws to create a classified Board of Governors and specify the number of Governors that would serve as On-Floor, Off-Floor, At Large and Public members of the Board. Phlx's rule change was viewed as conforming to the Commission's governance policy set out in the CBOE proceedings. The Commission noted in its order that then current Phlx By-Laws, which proivded no limitations on the number of On-Floor or Off-Floor representatives who could be elected to the 21 unclassified broker governor positions, had the potential for allowing the domination of the 30 member Board by one sector of the Phlx membership. The Commission stated that Phlx's By-Law amendment would conform the structure of the Phlx Board of Governors with the fair representation principles the Commission set out in reviewing CBOE's proposal. *See CBOE Order at 2, 3.*

[22] There are currently 82 NYSE electronic access members who pay $37,000 annually for such access. On the date of the membership vote on the constitutional amendments, December 20, 1985, there were 77 such members. Of these, 29 voted for the proposed amendments and 3 voted against (the remaining such members not voting).

[23] DOT is computerized order routing system for small orders (currently the system is limited to orders of 2,099 shares or less). DOT routes these orders directly to the specialist post.

[24] The "effective date" means the date that is thirty days after the proposed new Constitution becomes effective.

[25] *See* February 6, 1986 letter.

[26] In its February 6, 1986 letter, the NYSE points out that the Amex, Phlx, and the CBOE all have member categories which have trading privileges but no right to vote. It also notes that options trading right holders on the NYSE have trading rights but no voting rights.

Options trading right holders for the NYSE were approved by the Commission in Securities Exchange Act Release No. 20202, September 20, 1983 (File Nos. SR–NYSE–83–29, SR–NYSE–83–30). Under Article XIII of the current NYSE Constitution, options trading right holders are permitted to maintain facilities on the trading floor for the execution of options orders but are not provided with any membership rights in the Exchange. The proposed revised NYSE Constitution retains this provision substantially unchanged in Article II, Sections 8 and 9.

In addition, as the NYSE suggests, several other exchanges have categories of non-voting participants. The Amex has two such membership categories. Options Principal Members ("OPM's") are only permitted to trade in options on the trading floor of the Amex. OPM's have no vote in election of Governors or officers of the Exchange or in other matters which require a membership vote except for those matters which would affect any provision in the Amex's certificate of incorporation and which would adversely affect the OPM's rights upon dissolution or liquidation of the Amex. Amex also has an Associate Member category. Those members are only permitted electronic access tothe trading floor of the Exchange and have no voting rights in any of the affairs of the Exchange.

CBOE has two categories of permit holders (foreign currency options and debt options) who are only allowed to trade on the floor of the Exchange in their specific type of option. These are three year non-renewable permits and the permit holders have no voting rights in any of the affairs of the Exchange. CBOE also has a Special Membership which was granted to former MSE options members. Such membership is for a ten year period (non-renewable) and it only permits the member to trade in 16 options on the Exchange. Special Members have 1/6 the vote of a regular member in the affairs of the Exchange.

At the Cincinnati Stock Exchange, Inc., Access Participants have a one year renewable membership that entitles them to access the trading floor of the Exchange but only allows them to conduct trading through regular Proprietary Members (who have a full vote and equitable interest in the Exchange). Access Participants may only vote for access participants to the Exchange's Board of Trustees and on issues which would have the effect of either increasing or decreasing their membership rights.

On the Phlx, Foreign Currency Options Participation holders are only permitted to trade foreign currency options on the Exchange. They have no equity interest in the Exchange and have no vote in any of its affairs.

of the NYSE's affairs." [27] The order focused on the temporary nature of these annual memberships, and the lack of any equity interest in the Exchange by such members, as the basis for its decision to approve the NYSE's limitation on such members' voting privileges. Specifically, the Commission approved a one-half vote for electronic access members, with a limitation on voting on matters involving the disposition of Exchange assets or matters "relating to the rights, privileges or limitations of annual membership. . . ." [28] With respect to the latter provision, the Commission stated that "it is pertinent to note that annual members, upon expiration of their memberships, would have no unalterable claim to acquire future memberships which confer precisely the same rights and privileges as earlier memberships." [29] The Commission noted in the order, however, that proposed NYSE constitutional amendments limiting "the rights or privileges of *then current* annual members would raise questions as to the fair representation and unfair discrimination provisions of the Act. . . ." [30]

The Commission recognized in its 1978 order that, in creating means of Exchange access in addition to purchase of a regular seat, the NYSE was not required to grant equivalent voting powers among various membership classes, in light of the temporary nature of these memberships and the lack of any equity interest in the Exchange accruing from such membership. In view of the fact that the sole interest of the electronic access member is, by payment of $37,000 annually, to gain direct access to the NYSE's DOT system or a member's floor facilities for more efficient and less expensive order execution, the Commission believes that the NYSE is not required to provide these members the voting rights provided to regular members who pay substantially more for their privileges and who have a considerably greater stake in membership decisions relating to the conduct of business on the Exchange floor and to Exchange governance procedures. In addition, the Commission notes that, under the amended voting provisions, electronic access members would be able to appeal to the Commission, under section 19(d) of the Act, any disciplinary action taken by the Exchange against such member or any denial or limitations on access imposed by the Exchange upon such member.

The Commission concludes the proposed amendment is consistent with sections 6(b)(5) and 6(b)(8) of the Act in that the proposal in no way impinges on the rights of electronic access members to access the NYSE's DOT system or other Exchange facilities to which such members are currently permitted access.

C. Directors' Participation in Matters in Which They Have a Personal Interest

1. Description of Change

The current NYSE Constitution, Article III, Section 2, provides that no person shall participate in the adjudication of any matter in which he is personally interested. This provision would be deleted in the proposed Constitution and no comparable conflict of interest provision in the Constitution exists which would replace its requirement of mandatory disqualification of persons with a personal interest in an adjudication.

2. Discussion

The NYSE has stated that it regards the Constitution's current conflict of interest provision as unnecessary and that it intends to move this provision to the rules. The NYSE has noted, however, that if the Commission finds it is necessary to retain this provision, the Exchange will commit to proposing an amendment to reinsert this provision.

The Commission believes that section 6(b)(7) of the Act, which provides that the Commission shall insure that the rules of the exchange provide a fair procedure for the disciplining of members and persons associated with members, makes it essential that an appropriate conflict of interest provision—applying equally to proceedings by the Board of Directors as well as actions by all other members of the Exchange—be present in the NYSE Constitution.

Accordingly, the Commission has determined to take no action on the proposed deletion of the conflict of interest provision contained in Article III, Section 2, paragraph 7 of the current Constitution. The NYSE has committed to propose to its members at the next NYSE membership vote that a conflict of interest provision similiar to that included in current Article III, Section 2 be added to its revised Constitution.[31]

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and hereby is, approved.

Dated: February 28, 1986.

By the Commission.

John Wheeler,

Secretary.

[FR Doc. 86-5050 Filed 3-6-86; 8:45 am]

BILLING CODE 8010-01-M

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Philadelphia Stock Exchange, Inc.

February 28, 1986.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

First Wachovia Corporation
Common Stock, $5.00 Par Value (File No. 7-8847)

Morton Thiokol, Inc.
Common Stock, $1.00 Par Value (File No. 7-8848)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before March 21, 1986,

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[27] Securities Exchange Act Release No. 14535 (March 7, 1978), 43 FR 10659. In its order, the Commission also approved a class of "physical presence annual membership," permitting physical as well as electronic access to the floor and facilities of the Exchange. Such members have a full vote but, like current electronic access members, are unable to vote on matters involving (1) the sale, lease or disposition of Exchange assets; (2) an Exchange merger or consolidation; (3) dissolution or liquidation of the Exchange; (4) any proposal to amend any of the rights and privileges or limitations pertaining to physical or electronic access members; or (5) any election or amendment concerning the Exchange Gratuity Fund. *See* Article VII, Sec. 10 (b) and (c) of the present Constitution.

[28] Securities Exchange Act Release No. 14535 (March 7, 1978), 43 FR 10659.

[29] *Id.*

[30] *Id.*, note 9.

[31] *See* February 6, 1986 letter. The NYSE has agreed to the Commission s determination to take no action on the deletion of the conflict of interest provision from Article III, Section 2 of the current Constitution, and to propose to the NYSE membership that such a provision be reinstated into the Constitution. February 24, 1986 telephone conversation between Brandon Becker, Assistant Director, Division of Market Regulation, and James C. Buck, Secretary, NYSE.

A similar issue was raised in a By-Law amendment submitted for approval by the National Association of Secruities Dealers, Inc. ("NASD") (File No. SR-NASD-84-14) where, among other proposed changes, a conflict of interest provision was removed from the NASD By-Laws and placed instead in NASD's Code of Procedure. After discussions with the Commission staff, the NASD subsequently filed a new proposed rule change (File No. SR-NASD-85-2) which restored the conflict of interest langauge to its By-Laws. *See* Order Approving Proposed Rule Change, Securities Exchange Act Release No. 21955, SR-NASD-85-2, April 17 1985, 50 FR 16035.

written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such application is consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-5048 Filed 3-6-86; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-1790]

Issuer Delisting; Application To Withdraw From Listing and Registration; Russell Corp.; Common Stock, Par Value $.01 per Share

February 28, 1986.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to section 12(d) of the Securities Exchange Act of 1934 ("Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc.

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

The Board of Directors of Russell Corporation determined that, in connection with the listing of the Company's common stock on the New York Stock Exchange, Inc., it is desirable to withdraw the Company's common stock from listing on the American Stock Exchange to eliminate the expenses attendant in maintaining a dual listing of the Company's common stock.

Any interested person may, on or before March 21, 1986, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-5045 Filed 3-6-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-14965; File No. 812-6274]

Banco Central, S.A.; Application for an Order Granting Exemption From all Provisions of the Act

February 28, 1986.

Notice is hereby given that Banco Central, S.A. ("Applicant"), c/o Sydney H. Mendelsohn, Esq., Finley, Kumble, Wagner, Heine, Underberg, Manley & Casey, 1120 Connecticut Avenue, NW, Washington, DC 20036, filed an application on January 3, 1986, and an amendment thereto on February 25, 1986, for an order of the Commission, purusant to section 6(c) of the Investment Company Act of 1940 (the "Act"), exempting Applicant and certain United States subsidiaries thereof from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act for the text of the applicable provisions.

Applicant represents that it is a recognized bank under the laws of Spain and that it is subject to extensive regulation by Spanish, American, and other banking authorities by virtue of its worldwide activities. According to the application, Applicant currently ranks as the largest bank in Spain in terms of equity (approximately U.S. $811 million), total assets (approximately U.S. $14.4 billion) and deposits (approximately U.S. $13.4 billion).

Applicant intends to form one or more wholly-owned subsidiaries organized under the laws of the State of Delaware ("Subsidiary") to facilitate Applicant's access to the United States commercial paper market. Applicant states that the Subsidiary will serve exclusively as a financing vehicle for Applicant's proposed issuance of debt securities in the United States.

Applicant proposes to issue bearer promissory notes (the "Notes") in minimum denominations of $100,000 through commercial paper dealers to be sole only to institutional investors and other entities and individuals that ordinarily purchase commercial paper in the United States commercial paper market. Applicant states that the Notes will not be advertised, offered or sold to the general public and will have maturities not exceeding 270 days. According to the application, the Notes will be issued in one of two ways: (1) Applicant will be the issuer, in which case the Subsidiary's sole function will be to sign the Notes on behalf of Applicant as its agent. Applicant will be directly liable as principal for the payment of all Notes signed on its behalf by the Subsidiary and the Subsidiary will have no liability with respect thereto; or (2) the Subsidiary will issue the Notes which will be guaranteed by Applicant. Where the Subsidiary is the issuer it will promptly transfer to Applicant substantially all of the process of any offering of the Notes. In either case, Applicant will unconditionally guarantee the payment of principal and interest (if any) on the Notes. Applicant represents that such guarantees will rank *pari passu* among themselves and with all other unsecured unsubordinated indebtedness (including deposit liabilities) of Applicant and superior to rights of shareholders, and that holders of the Notes will have a direct cause of action against Applicant in the event of any default in payment on the Notes.

According to the application, the proceeds from sales of the Notes are expected to be used for current transactions in the ordinary course of Applicant's business and the Notes will qualify for exemption from the registration requirements of the Securities Act of 1933 (the "1933 Act"). Applicant further represents that it will not issue or sell any Notes until it has received an opinion of its United States counsel that the Notes are entitled to such exemption.

According to the application, the initial issuance of the Notes by Applicant or any Subsidiary will be for a principal amount not to exceed $500 million. However, Applicant states that in the future, it or a Subsidiary may, from time to time, offer and sell in the United States debt securities other than the Notes, which may be in denominations of less than $100,000, but neither Applicant nor a Subsidiary will offer or sell equity securities in the United States in reliance upon or pursuant to the order requested herein. In the case of any such offering of debt securities in the United States, Applicant will provide a direct, unconditional guarantee for the payment of principal, premium (if any) and interest. Such guarantees will rank *pari passu* with other debt securities of Applicant having the same degree of

subordination. With respect to any public offering of securities requiring registration, Applicant represents that it will not sell such securities until the registration statement pertaining thereto has been declared effective by the Commission.

Applicant states that the proposed issuance of the Notes and any future offering of debt securities in the United States shall have received, prior to issuance, one of the three highest investment grade ratings from at least one nationally recognized investment rating organization, and that Applicant's United States counsel shall have certified that such rating has been received. However, no such rating will be required if, in the opinion of Applicant's United States counsel, an exemption from registration is available with respect to such issue under section 4(2) of the 1933 Act or Regulation D thereunder.

Applicant undertakes to ensure that each dealer of the Notes, or of any future debt securities offered by Applicant or any Subsidiary, will provide each offeree, prior to any sale of such securities, a memorandum (the "Offering Memorandum") describing Applicant's business and containing Applicant's most recently published financial statements audited in accordance with Spanish auditing practices. Applicant represents that the Offering Memorandum will describe the material differences between generally accepted accounting principles employed by United States banks and accounting principles applicable to Spanish banks and used by Applicant. Applicant states that the Offering Memorandum will be at least as comprehensive as those customarily used in commercial paper offerings in the United States and will be updated as promptly as practicable to reflect material changes in Applicant's business or financial status. Applicant consents to any order granting the requested relief being expressly conditioned upon compliance by Applicant with the foregoing undertakings regarding the Offering Memorandum.

With respect to the Notes and any future issuances of debt securities in the United States, Applicant represent that it (and the Subsidiary if it is the issuer) will appoint one of its general managers or a corporate entity which acts in such capacity to accept service of process in any action commenced in any state or federal court in the United States by holders of the Notes against the Applicant based on the Notes or the guarantees thereon. Applicant (and the Subsidiary if it is the issuer) will expressly accept the jurisdiction of any state or federal court in the Borough of Manhattan and the City and State of New York in respect of any such action. Such Appointment of an authorized agent to accept service of process and such consent to jurisdiction will be irrevocable until all amounts due and to become due in respect of the Notes or other debt securities shall have been paid. The application also states that both the Applicant and the Subsidiary will be subject to suit in any other court in the United States which would have jurisdiction because of the manner of the offering or otherwise.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than March 24, 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, DC 20549. A copy of the request should be served personally or by mail upon Applicant(s) 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 Managment, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-5046 Filed 3-6-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24034; 70-7203]

The Southern Co., et al.; Proposal To Issue and Sell Short-Term Notes, Term-Loan Notes and Commercial Paper; Exception From Competitive Bidding

February 28, 1986.

The Southern Company ("Southern"), a registered holding company, 64 Perimeter Center East, Atlanta, Georgia 30346, and its public utility subsidiaries, Georgia Power Company ("Georgia"), 333 Piedmont Avenue, NE., Atlanta, Georgia 30308, Gulf Power Company ("Gulf"), 75 North Pace Boulevard, Pensacola, Florida 32520 and Mississippi Power Company ("Mississippi"), 2992 West Beach, Gulfport Mississippi 39501, have filed an application-declaration subject to sections 6(a) and (b), 7, and 12(b) of the Public Utility Holding Company Act of 1935 ("Act") and Rules 45, 50(a)(2) and 50(a)(5) thereunder.

Southern, Georgia, Gulf and Mississippi propose to issue and sell from time to time, prior to April 1, 1988, short-term notes to banks and, in the case of Georgia, Gulf and Mississippi, commercial paper to dealers up to an aggregate principal amount of $100 million for Southern, $1 billion for Georgia, $35 million for Gulf and $35 million for Mississippi. In addition, Georgia is also seeking term-loan authorization. For the period ending April 1, 1987, Southern also proposes to make capital contributions to its subsidiaries, Alabama Power Company, Georgia, Gulf and Mississippi, in amounts not to exceed $45, $320, $10 and $5 million, respectively.

Southern has obtained commitments aggregating $100 million from certain banks. Each commitment currently matures December 31, 1986 and is subject to renewal in accordance with its terms. Southern can elect one of three rate options, currently producing an effective cost range of between 8.9% and 10%.

Pursuant to separate commitment agreements with 11 banks ("Bank") Georgia may borrow, through December 31, 1990, on a short-term unsecured revolving credit basis, up to an aggregate of $1.565 billion in principal amount at any one time outstanding. These borrowings have a maximum maturity of 270 days, are renewable at maturity and may be converted to term loans at any time at Georgia's option. Under the term-loan option, borrowings would be repaid in 12 equal quarterly installments beginning March 31, 1991 through December 31, 1993, or at an earlier date at Georgia's option. Under each agreement, Georgia is obligated to pay a commitment fee of .5% based upon the unused portion of the Bank's commitment. The current effective annual interest rates on individual borrowings would range from 8.5% to 9.8%, and from 8.6% to 10.1% for term-loan borrowings.

Georgia, Gulf and Mississippi also may effect short-term borrowings hereunder in connection with the financing of certain pollution control facilities through the issuance by public entities of their revenue bond anticipation notes.

The application-declaration and any amendments thereto are available for public inspection through the Commission's Office of Public Reference. Interested persons wishing to comment or request a hearing should submit their views in writing by March

24, 1986, to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the applicants-declarants at the addresses specified above. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for a hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in this matter. After said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

John Wheeler,

Secretary.

[FR Doc. 86-5047 Filed 3-6-86; 8:45 am]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

Forms Under Review by the Office of Management and Budget

AGENCY: Tennessee Valley Authority.

ACTION: Forms Under Review by the Office of Management and Budget.

SUMMARY: The Tennessee Valley Authority (TVA) has sent to OMB the following proposal for the collection of information under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35).

Requests for information, including copies of the forms proposed and supporting documentation, should be directed to the Agency Clearance Officer whose name, address, and telephone number appear below. Questions or comments should be directed to the Agency Clearance Officer and also to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503; Attention: Desk Officer for Tennessee Valley Authority, 395-7313.

Agency Clearance Officer: Mark R. Winter, Tennessee Valley Authority, 100 Lupton Building, Chattanooga, TN 37401; (615) 751-2524, FTS 858-2524.

Type of Request: Regular Submission.

Title of Information Collection: Southeastern Biomass Reporting Form.

Frequency of Use: Once per respondent.

Type of Affected Public: Businesses or other for-profit, non-profit institution, and small businesses or organizations.

Small Businesses or Organizations Affected: Yes.

Federal Budget Functional Category Code: 452.

Estimated Number of Annual Responses: 800.

Estimated Total Annual Burden Hours: 200.

Need For and Use of Information: Preliminary data indicates the existence of 800 installations in the Southeastern U.S. using cellulosic fuels for energy conversion. The states comprising the S.E. region will be surveyed to collect data describing those installations. The data will be published to serve the community by enabling biomass industries to match their needs with local resources, and by encouraging adoption of proven technologies.

Dated: February 28, 1986.

John W. Thompson,

Manager of Corporate Services, Senior Agency Official.

[FR Doc. 86-4950 Filed 3-6-86; 8:45 am]

BILLING CODE 8120-01-M

DEPARTMENT OF TRANSPORTATION

Agreements Filed Under Sections 408, 409, 412, and 414 During the Week Ending February 28, 1986

Answers may be filed within 21 days from the date of filing.

Date filed	Docket No.	Parties	Subject	Proposed effective date
Feb. 26, 1986	43818, R-1—R-22	Members of International Air Transport Association.	Europe-Japan/Korea Fares	Apr. 1, 1986.
Do	43819, R-1—R-7	do	Europe-Libya Fares	Do.
Do	43820	do	CO-rates NY-Africa	Feb. 22, 1986.
Do	43821	do	Proportional fares—Egypt	Apr. 1, 1986.
Do	43822	do	Amend Mileage Manual	Mar. 1, 1986.
Do	43823, R-1—R-3	do	Fares—Pakistan-Mali	Apr. 1, 1986.
Do	43824	do	Proportional Fares—U.S.-Europe.	Mar 15, 1986.
Feb. 28, 1986	43830	do	Adjustment factors Canada-Mideast.	May 1, 1986.
Do	43831	do	Two percent increase in rates from France to So. America.	Mar. 1, 1986.
Do	43832	do	Postpone effectiveness of TC123 North/Mid Atlantic.	Apr 1, 1986.

Feb. 26, 1986	43826	Continental Air Lines, Inc., c/o Elliott M. Seiden, Suite 300, 1201 Pennsylvania Avenue, NW., Washington, DC 20004. Texas International Airlines, Inc., et al., c/o Clark H. Onstad, 1201 Pennsylvania Avenue, NW., Suite 300, Washington, DC 20004. Joint Application of Continental Air Lines, Inc. and Texas International Airlines, Inc., et al., pursuant to section 416 of the Act, requests an exemption from sections 401 and 408 of the Act, to the extent necessary to permit Continental and TI formally to merge and transfer all regulatory authorities, including their certificates of public convenience and necessity to Continental Airlines Corporation.
Feb. 28, 1986	43825	Texas Air Corporation, c/o Calvin J. Collier, Hughes Hubbard & Reed, 1201 Pennsylvania Ave., NW., Washington, DC 20004. Eastern Air Lines, Inc., c/o Robert N. Duggan, 1030 Fifteenth Street, NW., Washington, DC 20005. Joint Application of Texas Air Corporation and Eastern Air Lines, Inc. applies for approval of the proposed acquisition of control of Eastern by Texas Air, pursuant to section 408 of the Act.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-5024 Filed 3-6-86; 8:45 am]

BILLING CODE 4910-62-M

Applications for Certificates of Public Convenience and Necessity and Foreign Air Carrier Permits Filed Under Subpart Q of Department of Transportation's Procedural Regulations (See 14 CFR 302.1701 et seq.); Week Ended February 28, 1986

Subpart Q Applications

The due date for answers, conforming application, or motions to modify scope are set forth below for each application. Following the answer period DOT may process the application by expedited procedures. Such procedures may consist of the adoption of a show cause order, a tentative order, or in appropriate cases a final order without further proceedings.

Date filed	Docket No.	Description
Feb. 25, 1986	43817	Northland Air Manitoba Limited, c/o Edwi2 T. Nobbs, Nobbs, Woods & Clark, 70 University Avenue, Suite 250, Toronto, Canada, M5J 2M4. Application of Northland Air Manitoba Limited pursuant to Section 402 of the Act and Subpart Q of the Regulations requests nonscheduled or charter foreign air transportation between any point or points in Canada and any point or points in the United States using large aircraft. Answers may be filed by March 25, 1986.

Phyllis T. Kaylor,

Chief, Documentary Services Division.

[FR Doc. 86-5023 Filed 3-6-86; 8:45 am]

BILLING CODE 4910-62-M

Scottsdale Municipal Airport; Noise Exposure Map

Federal Aviation Administration

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its determination that the noise exposure maps submitted by the city of Scottsdale, Arizona, for the Scottsdale Municipal Airport under the provisions of Title I of the Aviation Safety and Noise Abatement Act of 1979 (Pub. L. 96-193) and 14 CFR Part 150 are in compliance with applicable requirements.

EFFECTIVE DATE: The effective date of the FAA's determination on the noise exposure maps is February 7, 1986.

FOR FURTHER INFORMATION CONTACT: L. Yvonne Gibson, Airport Planner, AWP-611.5, Federal Aviation Administration, Western-Pacific Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009, (213) 297-1621.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA finds that the noise exposure maps submitted for Scottsdale Municipal Airport, Scottsdale, Arizona, are in compliance with applicable requirements of FAR Part 150, effective February 7, 1986.

Under Section 103 of the Aviation Safety and Noise Abatement Act of 1979 (hereinafter referred to as "the Act"), an airport operator may submit to the FAA noise exposure maps which meet applicable regulations and which depict noncompatible land uses as of the date of submission of such maps, a description of projected aircraft operations, and the ways in which such operations will affect such maps. The Act requires such maps to be developed in consultation with interested and affected parties in the local community, government agencies and persons using the airport.

An airport operator who has submitted noise exposure maps that are found by FAA to be in compliance with the requirements of FAR Part 150, promulgated pursuant to Title I of the Act, may submit a noise compatibility program for FAA approval which sets forth the measures the operator has taken or proposes for the reduction of existing noncompatible uses and for the prevention of the introduction of additional noncompatible uses.

The FAA has completed its review of the noise exposure maps and related descriptions submitted by the city of Scottsdale, Arizona, on May 25, 1985. The FAA has determined that the noise exposure maps for the Scottsdale Municipal Airport are in compliance with applicable requirements. This determination is effective on February 7, 1986. FAA's determination on an airport operator's noise exposure map is limited to a finding that the maps were developed in accordance with the procedures contained in Appendix A of FAR Part 150. Such determination does not constitute approval of the applicant's data, information or plans, nor is it a commitment to approve a noise compatibility program or to fund the implementation of that program.

If questions arise concerning the precise relationship of specific properties to noise exposure contours depicted on a noise exposure map submitted under section 103 of the Act, it should be noted that the FAA is not involved in any way in determining the relative locations of specific properties with regard to the depicted noise contours, or in interpreting the noise exposure maps to resolve questions concerning, for example, which properties should be covered by the provisions of section 107 of the Act. These functions are inseparable from the ultimate land use control and planning responsibilities of local government. These local responsibilities are not changed in any way under FAR Part 150 or through FAA's review of noise exposure maps. Therefore, the responsibility for the detailed overlaying of noise exposure contours onto the map depicting properties on the surface rests exclusively with the airport operator which submitted those maps, or with those public agencies and planning agencies with which consultation is required under section 103 of the Act. The FAA has relied on the certification by the airport operator, under section 150.21 of FAR Part 150, that the statutorily required consultation has been accomplished.

Copies of the noise exposure maps and the FAA's evaluation of the maps are available for examination at the following locations:

Federal Aviation Administration, 800 Independence Avenue, SW., Room 617, Washington, DC 20591

Federal Aviation Administration, Western-Pacific Region, Airports Division, 15000 S. Aviation Boulevard, Room 6E25, Hawthorne, CA 90261

Mr. Carder Hunt, Airport Director, Scottsdale Municipal Airport, 3939 Civic Center Plaza, Scottsdale, AZ 85251

Issued in Hawthorne, California, on February 14, 1986.

H.C. McClure,

Director, Western-Pacific Region.

[FR Doc. 86-4945 Filed 3-6-86; 8:45 am]

BILLING CODE 4910-13-M

[Summary Notice No. PE-86-4]

Petitions for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: March 27, 1986.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. ———, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION: The petition, any comments received and a copy of any final disposition are filed in

the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on March 3, 1986.

John H. Cassady,

Assistant Chief Counsel, Regulations and enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
23386	Mid Pacific Airlines, Inc	14 CFR 121.371(a) and 121.378	To allow petitioner to utilize all Nippon Airways Company, Ltd., Air Asia Company, Ltd., and Toa Domestic Airlines and its affiliate Nitto Maintenance company for the inspection and overhaul of aircraft, including certain selected airframe accessories and appliances.
23808	Lone Star Helicopters, Inc	14 CFR 43.3(g)	To allow petitioner's appropriately trained and certificated pilots to remove, check, and reinstall magnetic chip detector plugs in the Allison 250 series turbine engines, aircraft transmissions, and tail rotor gearboxes installed on Bell 206 series helicopters.
20049	T.B.M. Inc	14 CFR 91.211(a)(1)	To allow petitioner to conduct operations of its McDonnel Douglas DC-6, and DC-7B aircraft without a flight crewmember holding a current flight engineer certificate.
20044	Air Transport Association of America	14 CFR 61.63 (b) and (c)	To allow pilots employed by Part 121 certificate holders to be issued additional category and class ratings based on normal upgrade training to second-in command.
20314	Flight Training Devices	14 CFR 61.63(d)(2)	To allow petitioner to complete a portion of the practical test for the issuance of an airplane transport pilot certificate or a type rating to be added to any grade of pilot certificate, by substituting the flight test requirement of § 61.1576(a) for those of § 61.63(d)(2) and (3), limited to the items and procedures for testing in an airplane simulator as set forth in Appendix A of Part 61.
22558	Boeing Commercial Airplane Company	14 CFR 47.69(b)	Extension of Exemption 3513c to permit petitioner to use Dealer's Aircraft Registration Certificates outside the United States for flight testing and sales demonstrations.
24795	Consulting Aerospace Engineers, Inc	14 CFR 21.19(b)	To allow petitioner, to engineer and direct the modification of a Cessna 337G aircraft from the existing two Commercial 0360 engines to one Pratt and Whitney PT6A-124 engine.
24814	Centre Airlines, Inc	14 CFR 135.267(d)	To allow petitioner's pilots to accept duty during flight time without having had at least 10 consecutive hours of rest during the 24-hour period preceding the planned completion of time of the assignment.
24818	Piedmont Airlines	14 CFR 121.308	To allow petitioner to use a lavatory trash receptacle without installing a self-containing fire agent bottle internally on its F28-1000 aircraft.
24630	Gulfstream Aerospace Corporation	14 CFR 21.181	To allow petitioner to operate certain types of aircraft utilizing the provisions of a minimum equipment list.
24875	Shoukat Ali Shah	14 CFR 65.91C(1) and C(2)	To allow petitioner to take the written test for the issuance of inspection authorization without having to wait 3 years.
24924	Civil Air Patrol	14 CFR 91.79(c)	To permit petitioner to conduct operations at distances less than 500 feet from people, vehicles, structures, and vessels.
24901	United Airlines	14 CFR 61.57(c)	To allow petitioner's test pilots to accomplish a minimum of six takeoffs and landings in a 90-day period in any and/or all types of large transport category airplanes operated by petitioner in lieu of accomplishing a minimum of three takeoffs and landings in each type in which rated each 90 days to maintain currency.
15691	Air Logistics	14 CFR 43.3(g)	To allow petitioner's appropriately trained and certified pilots to remove, check and reinstall magnetic chip detector plugs in the Allison C250C series turbine engines and transmissions and tail rotor gear boxes installed on Bell Model 206 series, Aerospatiale Model 355 series, and magnetic chip detector plugs in 42" and 90° tail rotor gear boxes installed on Bell Model 212-412 series helicopters.
23869	The Relative Workshop	14 CFR 105.43(a)	To allow petitioner and Strong Enterprises to continue to make tandem parachute jumps using dual harnesses and dual parachute jacks.

DISPOSITIONS OF PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
24373	Transportes Aereos Mercantiles Panamericanos, S.A.	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. To permit petitioner to operate two noncompliant Boeing 707-320 aircraft in foreign air commerce until December 31, 1985. *Denied February 24, 1986.*
23883	Florida Express	14 CFR 91.307	To allow operation in the United States, under a service to small communities exemption, of specified two-engine airplanes identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: BAC 1-11:N1542, N1544, N1545, N1546, N1548, N1549, N1135J, N1136J, N102EX, and N106EX. *Granted February 3, 1986*
24800	Tennessee Air Cooperative, Inc	14 CFR 103.1(e)(1)	To allow petitioner's pilots and other disabled pilots to exceed the maximum 259 pounds empty weight requirement for ultralight aircraft up to a maximum 350 pounds to allow installation of special safety and operational equipment for the disabled. *Granted January 30, 1986.*
24670	Executive Helicopters, Inc	14 CFR 91.169 (a) and (b)	To permit petitioner to inspect its Westland helicopters in accordance with a continous inspection program. *Granted January 31, 1986.*
24806	The Kroger Company	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. *Granted January 31, 1986.*
24762	George Lee	14 CFR 65.91(c)(2)	To allow petitioner to apply for an Inspection Authorization Certificate prior to completing the required two years of actively maintaining aircraft. *Granted February 5, 1986.*

DISPOSITIONS OF PETITIONS FOR EXEMPTION—Continued

Docket No.	Petitioner	Regulations affected	Description of relief sought disposition
23707	Ford Motor Company	14 CFR 21.181	To allow petitioner to operate the following aircraft using a Federal Aviation Administration (FAA)-approved minimum equipment list (MEL). *Granted February 5, 1986.*
24836	United Airlines, Inc.	14 CFR 121.371 (a) and 121.378	To permit petitioner to contract with Hong Kong Aircraft Engineering Company (HAECO) for maintenance, preventive maintenance, alterations, and required inspections on Rolls Royce RB-211 engines, Auxiliary Powerplant Units (APU's), and components in support of United-operated L-1011-500 aircraft and also to cross-utilize United-owned common L-1011-500 components with Cathay Pacific Airways, Ltd. (Cathay Pacific) and Gulf Air L-1011 components. *Granted February 6, 1986.*
22441	United Airlines	14 CFR 121.433, 121.441(a)(i), 121.441(i)(e)	To extend the July 31, 1985 termination date of Exemption 3451A. That exemption allows petitioner to conduct an FAA-monitored program under which flight crewmembers are able to meet the annual ground and flight recurrent training requirements and the annual proficiency check requirements without specifically meeting requirements to the cited sections. *Granted August 1, 1985.*
24516	U.S. Epperson Underwriting Co.	14 CFR 21.181	To allow petitioner to add an aircraft and renumber an aircraft already listed in a minimum equipment list exemption. *Granted February 10, 1986.*
24485 24486	National Medical Enterprises, Inc.	14 CFR 21.181	To allow petitioner to operate a Dassault DA-10 aircraft, N150BG, using a Federal Aviation Administration (FAA)-approved minimum equipment list (MEL). *Granted February 10, 1986.*
24144	Air Atlanta	14 CFR 63.37	To allow petitioner to substitute training in a simulator for the required 5 hours of flight training in the duties of a flight engineer. *Denied February 10, 1986.*
20771	US Air	14 CFR 91.307	To amend Exemption No. 3116b to add 1 aircraft. The present exemption allows operation in the United States, under a service to small communities exemption, of specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: BAC 1-11:N2111J, N1113J, N1122J, N1127J, N1128J, N1117J, N1112J, N1114J, N1115J, N1118J, N1119J, N1120J, N1123J, N1124J, N1126J, N1129J, N1130J, N1131J, N1132J and N1134J. *Amended Grant February 11, 1986.*
24645	Seven Bar Flying Service Inc.	14 CFR 141.35(b)(3)	To allow Sam Puma to serve as chief instructor for the Seven Bar Part 141 private course without meeting the regulation's full 500 hour, two-year certification requirements. *Denied February 12, 1986.*
24432	Susquehanna Airlines	14 CFR 135.175	To allow petitioner to operate DeHavilland Heron Aircraft without radar equipment. *Denied February 25, 1986.*
24753	Burnside-Ott Aviation	14 CFR 147.21 and 147.31	To allow petitioner relief from the general curriculum requirements, attendance, enrollment test, and credit for prior instruction or experience given to eleven of its students who were enrolled in the Burnside-Ott Aviation Technical School in Pensacola, Florida, prior to it having obtained Federal Aviation Administration (FAA) approval for its established curriculum. *Denied February 24, 1986.*
24592	Mr. John R. Mullin	14 CFR 61.151	To allow petitioner to qualify for an Airline Transport Pilot certificate (simulator-only) and to exercise the privileges of a simulator instructor without a first class medical certificate. Petitioner suffers from diabetes and is not eligible for a medical certificate under Part 67. *Denied February 24, 1986.*
23063	Tenneco Inc.	14 CFR 21.181	To permit petitioner to operate its fleet of corporate airplanes using a minimum equipment list (MEL) and a configuration deviation list (CDL). *Granted February 24, 1986*
24367	Empressa Ecuatorian Island Airways, Inc.	14 CFR 91.303	To exempt petitioner from the January 1, 1985, noise level compliance date. *Amended Grant February 26, 1986.*
24680	Lineas Aereas Del Caribe, S.A. (LAC)	14 CFR 91.307	To amend Exemption No. 3116b to add 1 aircraft. The present exemption allows operation in the United States, under a service to small communities exemption, of specified two-engine airplanes, identified by registration and serial number, that have not been shown to comply with the applicable operating noise limits as follows: Until not later than January 1, 1988: SE-210: HK2850, HC-BAJ *Amended Grant February 26, 1986.*
24630 24631	Gulfstream Aerospace Corporation	14 CFR 21.181	To allow petitioner to operate certain aircraft using a Federal Aviation Administration (FAA)-approved minimum equipment list (MEL). *Granted February 12, 1986.*
24278	Richard F. Main	14 CFR 61.73(c)	To allow the addition of a multiengine rating to petitioner's commercial, single-engine land instrument rating based on military competence. *Denied February 12, 1986.*
21959	Deere & Company	14 CFR Portions of Parts 21 & 91	To permit operation of a Grumman G-1159 (N400JD); Three Cessna C-550's, (N30JD, N60JD, N90JD) and a Lockheed L-1329 (N500JD) using the provisions of a FAA-approved minimum equipment list for each type of aircraft. *Granted February 12, 1986.*
24832	Crown Central Petroleum Corp.	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. *Granted February 12, 1986.*
24276	Western Airlines	14 CFR 63.37 (b) and Part 63, Appendix C	To allow an applicant for a flight engineer certificate with a turbojet class rating to obtain the certificate without having received the required 5 hours of flight training in an airplane. *Denied February 14, 1986.*
24548	Allied Corporation	14 CFR 21.181	Amendment to exemption No. 4524 to allow petitioner to operate additional aircraft utilizing the provisions of a minimum equipment list. *Granted February 13, 1986.*
24776	Eagle Jet Charter	14 CFR 43.3	To allow pilots of the petitioner who have been properly trained to remove or install aircraft seats on its Cessna and Learjet aircraft. *Granted February 19, 1986.*
23789	Prince Corporation	14 CFR 21.181	To allow petitioner to operate certain aircraft utilizing the provisions of a minimum equipment list. *Withdrawn January 31, 1986.*
23867	Executive Helicopters	14 CFR 141.41 (a)(1) and (iii)	To allow petitioner to utilize the HTS-100 Primary Helicopter Training system in their Part 141 Helicopter Pilot School, No. PC-205-2. The amendment would increase the maximum flight training credits up to 5 hours. *Withdrawn February 13, 1986.*
24146-2	South Pacific Island Airways	14 CFR 91.303	To allow petitioner to operate one Stage 1 B707-323B aircraft until hush kits are installed. *Granted February 26, 1986.*

[FR Doc. 86-4946 Filed 3-6-86; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA) Special Committee 153; Airborne VOR Equipment; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of RTCA Special Committee 153 on Airborne VOR Equipment to be held on April 7–8, 1986, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC, commencing at 9:30 a.m.

The Agenda for this meeting is as follows: (1) Chairman's Introductory Remarks; (2) Approval of Minutes of the Meeting Held on January 14–15, 1986; (3) Review and Discuss European Organization for Civil Aviation Electronics (EUROCAE) Working Groups WG–5 and WG–7A Activities; (4) Review Third Draft of Committee Report on Minimum Operational Performance Standards for Airborne ILS Glide Slope Equipment; (5) Review Fourth Draft of Committee Report on Minimum Operational Performance Standards for Airborne ILS Localizer Equipment; (6) Consideration of Further Changes to Eighth Draft of Committee, Report on Minimum Operational Performance Standards for Airborne VOR Receiving Equipment; and (7) Other Business.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682–0266. Any member of the public may present a written statement to the committee at any time.

Issued in Washington, D.C., on February 27, 1986.

Karl F. Bierach,

Designated Officer.

[FR Doc. 86–4938 Filed 3–6–86; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular—Public Debt Series—No. 11–86]

Treasury Notes, Series J–1991

Washington, February 27, 1986.

The Secretary announced on February 26, 1986, that the interest rate on the notes designated Series J–1991, described in Department Circular—Public Debt Series—No. 11–86 dated February 19, 1986, will be 8–⅛ percent. Interest on the notes will be payable at the rate of 8–⅛ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 86–4957 Filed 3–6–86; 8:45 am]

BILLING CODE 4810–40–M

Internal Revenue Service

Privacy Act of 1974; Reinstated System of Records

AGENCY: Internal Revenue Service, Department of the Treasury.

ACTION: Notice of Reinstatement of a System of Records. Treasury/IRS 00.001, Corresponding Files and Correspondence Control Files

SUMMARY: The Internal Revenue Service consolidated System 00.001 with System 00.002 in the 1977 annualy compilation of Privacy Act Systems of Records, 42 FR 49099, September 26, 1977, in an effort to reduce the number of systems of records for ease of use. The consolidation combined a system which was not exempt from any provisions of the Privacy Act with one that contains investigatory material exempt under (k)(2). Although not intended, this merger resulted in a system which was entirely exempt from access. The substance (contents and uses) of the systems were not intended to be changed, only the systems description. For this reason, the systems or records, as they appeared in 41 FR 45285, October 14, 1976, and the full text of their descriptions with a few editorial changes, are reinstated to replace consolidated system IRS 00.002, Correspondence Files (Including inquiries about enforcement activities), last published in the Department's 1985 republication of Notices of Systems of Records; 50 FR 29894, July 22, 1985.

This is an administrative action which has been initiated for the benefit of the public to properly reflect the system descriptions in the **Federal Register.** It does not require submissions to the Congress and OMB, nor does it require a public comment period as it is a reinstatement of a previously approved system of records.

DATE: These changes are effective March 7, 1986.

FOR FURTHER INFORMATION CONTACT: Marcus Farbenblum, (202) 566–3359, Chief, Public Services Branch.

Dated: February 27, 1986.

John F.W. Rogers,

Assistant Secretary of the Treasury (Management).

Treasury/IRS 00.001

SYSTEM NAME:

Correspondence Files and Correspondence Control Files—Treasury/IRS.

SYSTEM LOCATION:

Various offices of the Internal Revenue Service maintain files of correspondence received. (See IRS Appendix A).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Initiators of the correspondence. (2) Persons upon whose behalf the correspondence was initiated. (3) Subjects of the correspondence.

CATEGORIES OF RECORDS IN THE SYSTEM:

(1) Correspondence received. (2) Responses to correspondence. (3) Associated records. Special categories of correspondence may be included in other systems of records described by specific notices. Files are maintained in connection with a variety of correspondence received and the uses vary widely in accordance with the content of the correspondence. Correspondence may include letters, telegrams, memoranda of telephone calls, and other forms of communication.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801 and 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record or information from a record maintained in this system of records may be disclosed as a routine use: (1) To the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. Disclosure may be made during judicial processes. (2) To other agencies to the extent provided by law or regulation and as necessary to report apparent violation of law to appropriate law enforcement agencies. (3) To appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, registration, order, or license. (4) To a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement information or

other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit. (5) In response to a court subpoena, to appropriate parties engaged in litigation or in preparation of possible litigation such as potential witnesses for the purpose of securing their testimony to courts, magistrates or administrative tribunals, to parties and their attorneys in connection with litigation or settlement of disputes, to individuals seeking information through established discovery procedures in connection with civil, criminal or regulatory proceedings. (6) To foreign governments in accordance with formal or informal international agreements. (7) To a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (8) To the news media, in accordance with guidelines contained in 28 CFR 50.2, concerning this agency's functions relating to civil and criminal proceedings. (9) To unions recognized as exclusive bargaining representatives under Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (10) To third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation. (11) To the extent that any records in this system constitute return information, they may be disclosed only as provided by 26 U.S.C. 6103.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING FOR RECORDS IN THE SYSTEM:

STORAGE:

Paper records and/or magnetic media.

RETRIEVABILITY:

Controlled items are generally retrievable by name; some items are not retrievable, depending upon the controls established locally. No centralized index exists.

SAFEGUARDS:

Access controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

Disposition varies in accordance with the nature of the correspondence file, but is made in accordance with the Records Disposition Handbook, IRM 1(15)59.

SYSTEM MANAGERS(S) AND ADDRESS:

Head of the office maintaining the file. (See IRS Appendix A.)

NOTIFICATION PROCEDURE:

Individuals seeking to determine if a system of records contains a record pertaining to themselves may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the office believed to have received the correspondence. (See IRS Appendix A).

RECORD ACCESS PROCEDURES:

Individuals seeking access to any record contained in a system of records or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR Part 1, Subpart C, Appendix B. Inquiries should be addressed to the office believed to have received the correspondence.

CONTESTING RECORD PROCEDURES:

See Access above.

RECORD SOURCE CATEGORIES:

Information supplied by the initiators of the correspondence and information secured internally from other systems of records.

SYSTEMS EXEMPTED FORM CERTAIN PROVISIONS OF THE ACT:

None.

Treasury/IRS 00.002

SYSTEM NAME:

Correspondence Files/Inquiries About Enforcement Activities—Treasury/IRS.

SYSTEM LOCATION:

National Office, National Computer Center, Date Center, Regional Offices, District Offices, and Service Centers. (See IRS Appendix A).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

(1) Initiators of correspondence. (2) Persons upon whose behalf the correspondence was initiated. (3) Persons who are subjects of the correspondence. Includes individuals for whom tax liabilities exist, individuals who have made a complaint or inquiry relative to an Internal Revenue tax matter, or individuals for whom a third party is interceding relative to an Internal Revenue tax matter.

CATEGORIES OF RECORDS IN THE SYSTEM:

Taxpayer name, address, taxpayer identification number (if applicable), information about tax matters (if applicable), chronological investigative history. Other information relative to the conduct of the case and/or the taxpayer's compliance history (if applicable). Correspondence may include letters, telegrams, memoranda of telephone calls and other forms of communication.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301; 26 U.S.C. 7602; 26 U.S.C. 7801, 7802.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

These records and information in these records may be used: (1) To disclose information to the Department of Justice in connection with actual or potential criminal prosecution or civil litigation, and in connection with requests for legal advice. (2) To appropriate Federal, state, local, or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing, a statute, rule, registration, order, or license. (3) To a Federal, State, or local agency, maintaining civil, criminal or other relevant enforcement informaiton or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureaus's hiring or retention of an employee, or issuance of a security clearance, license, contract, grant, or other benefit. (4) To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena, or in connection with criminal law proceedings. (5) In response to a court subpoena, to appropriate parties engaged in litigation or in preparation of possible litigation such as potential witnesses for the purpose of securing their testimony to courts, magistrates or administrative tribunals, to parties and their attorneys in connection with litigation or settlement of disputes, to individuals seeking information through established discovery procedures in connection with civil, criminal or regulatory proceedings. (6) To a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (7) To the news media, in accordance

with guidelines contained in 28 CFR 50.2, concerning this agency's functions relating to civil and criminal proceedings. (8) To unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114. (9) To third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation. (10) Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. (11) Disclosure may be made to other agencies to the extent provided by law or regulation and as necessary to report apparent violation of law to appropriate law enforcement agencies. (12) Information may be disclosed to States, the District of Columbia, the Commonwealth of Puerto Rico, or possessions of the United States, to assist in the administration of tax laws. (13) Disclosure may be made to other parties when necessary in the administration and enforcement of law as authorized by 26 U.S.C. 7801 and 7802. (14) Disclosure may be made during judicial processes.

POLICIES AND PRACTICES FOR STORING, RETRIEVING ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and/or magnetic media.

RETRIEVABILITY:

Controlled items are generally retrievable by name; some items are not retrievable, depending upon the controls established locally. No centralized index exists.

SAFEGUARDS:

Access controls will be not less than provided for by the Physical and Document Security Handbook, IRM 1 (16) 41.

RETENTION AND DISPOSAL:

Disposition varies in accordance with the nature of the correspondence file, but is made in accordance with the Records Disposition Handbook, IRM 1 (15) 59.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Commissioners, Regional Commissioners, District Directors and Service Center Directors of Internal Revenue.

NOTIFICATION PROCEDURE:

This system is exempt from the notification provisions of the Privacy Act.

RECORD ACCESS PROCEDURE:

This system is exempt from the Access and Contest provisions of the Privacy Act.

CONTESTING RECORD PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

This system of records contains investigatory material compiled for law enforcement purposes whose sources need not be reported.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

This system has been designated as exempt from certain provisions of the Privacy Act.

[FR Doc. 86-4996 Filed 3-6-86; 8:45 am]
BILLING CODE 4330-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 45
Friday, March 7, 1986

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

CONSUMER PRODUCT SAFETY COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, March 13, 1986.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, DC.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

Section 15 Guidelines

The staff will brief the Commission on the staff's response to comments on the Statement of Enforcement Policy on Substantial Product Hazard Reports, published in the **Federal Register** on April 6, 1984.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207, 301–492–6800.

Sheldon D. Butts,

Deputy Secretary.

March 5, 1986.

[FR Doc. 86–5116 Filed 3–5–86; 1:19 pm]

BILLING CODE 6355-01-M

2

CONSUMER PRODUCT SAFETY COMMISSION

TIME AND DATE: 9:30 a.m., Wednesday, March 12, 1986.

LOCATION: Third Floor Hearing Room, 1111 18th Street, NW., Washington, DC.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

1. Monitoring Voluntary Standards

The staff will brief the Commission on policy options for monitoring industry conformance to voluntary standards and will review recent comments received on plans by staff to monitor industry enforcement of voluntary standards.

2. Cost Benefit Analysis

The staff will brief the Commission on the use of cost benefit analysis.

FOR A RECORDED MESSAGE CONTAINING THE LATEST AGENDA INFORMATION, CALL: 301–492–5709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sheldon D. Butts, Office of the Secretary, 5401 Westbard Ave., Bethesda, Md. 20207 301–492–6800.

March 5, 1986.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 86–5117 Filed 3–5–86; 1:20 pm]

BILLING CODE 6355-01-M

3

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 7361, Dated March 3, 1986.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 2:00 p.m. (eastern time), Monday, March 10, 1986.

CHANGE IN THE MEETING: Cancellation of Meeting.

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat, (202) 634–6748.

Dated: March 4, 1986.

Cynthia C. Matthews,

Executive Officer.

This Notice Issued March 4, 1986.

[FR Doc. 86–5124 Filed 3–5–86; 2:41 pm]

BILLING CODE 6750-06-M

4

FEDERAL ENERGY REGULATORY COMMISSION

TIME AND DATE: March 12, 1986, 10:00 a.m.

PLACE: 825 North Capitol Street, NE., Room 9306, Washington, D.C. 20426.

STATUS: Open.

MATTERS TO BE CONSIDERED: Agenda.

*Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, Telephone (202) 357–8400.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda; however, all public documents may be examined in the Division of Public Information.

Consent Power Agenda, 831st Meeting—March 12, 1986, Regular Meeting (10:00 a.m.)

CAP–1.
Project No. 9631–001, Robert Z. Walker and John F. Foster

CAP–2.
Project No. 7802–003, Natural Energy Resources Company

CAP–3.
Project No. 4332–002, Long Lake Energy Corporation
Project No. 5698–001, Tiriton Power Company

CAP–4.
Project No. 8713–002, Kittitas Reclamation District

CAP–5.
Project No. 4914–001, Philip Morris Industrial Incorporated

CAP–6.
Project No. 7492–004, Michiana Hydro-Electric Power Corporation

CAP–7.
Project No. 8383–002, Palisade Irrigation District

CAP–8.
Docket No. ER85–644–001, Duke Power Company

CAP–9.
Docket Nos. ER86–258–000, ER85–461–001 and ER85–521–000, Kansas Gas and Electric Company

CAP–10.
Docket No. ER86–38–000, Pacific Power & Light Company, an assumed business name of Pacificorp.

CAP–11.
Project No. 2934–009, New York State Electric and Gas Corporation

Consent Miscellaneous Agenda

CAM–1.
Docket No. RM85–1–000 (Parts A–D), regulation of natural gas pipelines after partial wellhead decontrol (industrial groups)

CAM–2.
Docket No. RM85–1–000 (Parts A–D), regulation of natural gas pipelines after partial wellhead decontrol (Trunkline Gas Company)

CAM–3.
Docket No. RM85–1–000 (Parts A–D), regulation of natural gas pipelines after partial wellhead decontrol (Colorado Interstate Gas Company)

CAM–4.
Docket No. RM85–1–000 (Parts A–D), regulation of natural gas pipelines after partial wellhead decontrol (Oregon Steel

Mills and Northwest Natural Gas Company)
CAM–5.
Docket No. RM85–1–000 (Parts A–D) regulation of natural gas pipelines after partial wellhead decontrol (Sohio Petroleum Company)
CAM–6.
Docket No. RM85–1–000 (Parts A–D), regulation of natural gas pipelines after partial wellhead decontrol (Texcol Gas Services, Inc.)
CAM–7.
Docket No. GP80–43–008 (Phase II), Northern Natural Gas Company, Division of Internorth, Inc.
CAM–8.
Docket No. GP82–35–000, El Paso Natural Gas Company
CAM–9.
Docket No. GP81–26–000, ANR Production Company
CAM–10.
Docket No. GP84–8–000, Colorado Interstate Gas Company
CAM–11.
Docket No. RO85–12–000, Dorchester Gas Corporation
CAM–12.
Docket No. RO85–16–000, Warrior Oil Company
CAM–13.
Docket No. RO85–17–000, Glen A. Martin
CAM–14.
Docket Nos. RO85–3–000, and RA86–1–000, Petro-Thermo Corporation
CAM–15.
Docket No. RM85–1–000 (Parts A–D), regulation of natural gas pipelines after partial wellhead decontrol (Panda Resources, Inc.)

Consent Gas Agenda

CAG–1.
Docket No. RP86–47–000, Northwest Alaskan Pipeline Company
CAG–2.
Docket No. RP79–10–023, Great Lakes Gas Transmission Company
CAG–3.
Docket No. RP86–35–001, Great Lakes Gas Transmission Company
CAG–4.
Docket No. RP85–177–009, Texas Eastern Transmission Corporation
CAG–5.
Docket No. RP85–141–007, Texas Gas Transmission Corporation
CAG–6.
Docket Nos. 84–108–006 and 007, Texas Eastern Transmission Corporation
CAG–7.
Docket No. TA86–1–33–007, El Paso Natural Gas Company
CAG–8.
Docket Nos. TA85–2–9–010, TA85–3–9–003 and RP80–97–053, Tennessee Gas Pipeline Gas Pipeline Company, a Division of Tenneco Inc.
CAG–9.
Docket No. TA86–1–43–003, Northwest Central Pipeline Corporation
CAG–10.
Docket No. RP85–206–001, Northern Natural Gas Company, Division of Internorth, Inc.
CAG–11.
Docket Nos. ST81–260–006 and CP82–206–003, Mustang Fuel Corporation
CAG–12.
Docket Nos. RP85–125–002 and RP85–165–010, Distrigas of Massachusetts Corporation
CAG–13.
Docket Nos. TA85–2–61–000, 001 and 003, Bayou Interstate Pipeline System
CAG–14.
Docket No. CP85–711–000, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. v. Columbia Gas Transmission Corporation
CAG–15.
Docket Nos. RI74–188–076, RI75–21–071, RI74–188–077, RI75–21–072, RI74–188–078 and RI75–21–073, Independent Oil & Gas Association of West Virginia
CAG–16.
Docket No. CP85–544–001, International Paper Company
Docket No. CP79–469–002, Southern Natural Gas Company
Docket No. CP85–852–000, Arkla Energy Resources, a Division of Arkla, Inc.
CAG–17.
Omitted
CAG–18.
Docket No. CP86–40–000, Northern Natural Gas Company, Division of Internorth, Inc.
CAG–19.
Docket No. CP85–860–000, Sea Robin Pipeline Company
CAG–20.
Docket No. CP85–532–000, Tennessee Gas Pipeline Company, a Division of Tenneco Inc.
CAG–21.
Docket No. CP86–5–000, Lone Star Company, a Division of Enserch Corporation
CAG–22.
Docket No. CP86–317–000, Panhandle Eastern Pipe Line Company
CAG–23.
Docket No. CP85–548–000, Southern Indiana Gas and Electric Company v. ANR Pipeline Company
CAG–24.
Docket No. IS85–15–000, Southern Pacific Pipe Lines, Inc.
CAG–25.
Docket Nos. RP82–16–005, 006 and RP85–209–000, United Gas Pipe Line Company

I. Licensed Project Matters

P–1.
Project No. 7105–002, Davenport-Rock Island Associates
P–2.
Project No. 9401–001, the Halecrest Company
P–3.
Project No. 1962–006, Pacific Gas and Electric Company
Project No. 3223–002, Sacramento Municipal Utility District, Northern California Power Agency, and the Cities of Anaheim, Azusa, Banning, Colton and Riverside, California
P–4.
Project Nos. 5248–005, 5250–004 and 5862–004, West Slope Power Company
P–5.
Project No. 6913–002, Weber Basin Water Conservancy District
P–6.
Project No. 9027–002, SNC Hydro, Inc.
P–7.
Project No. 69.02–002, City of New Martinsville, West Virginia
P–8.
Project No. 7899–006, Renewable Resources Development and Jungert Corporation, Inc.
P–9.
Project No. 7610–000, City of Rome, New York
Project No. 8303–000, Power Authority of the State of New York

II. Electric Rate Matters

ER–1.
Docket Nos. ER81–428–001 and ER82–483–026 (qualifying facility issues), Middle South Services, Inc.
Docket No. EL81–12–001, State of Arkansas v. Middle South Utilities, Inc.
ER–2.
Docket No. EL85–18–000, City of Tacoma, Washington v. the Washington Water Power Company, the Montana Power Company, Portland General Electric Company, Pacific Power and Light Company and Puget Sound Power and Light Company

Miscellaneous agenda

M–1.
Reserved
M–2.
Reserved
M–3.
Docket No. RM85–1–000 (Parts A–D), regulation of natural gas pipelines after partial wellhead decontrol (the Board of Trustees of the University of Illinois)
M–4.
Docket No. RM85–1–000 (Parts A–D), regulation of natural gas pipelines after partial wellhead decontrol (Clarco Gas Company, Inc.)

I. Pipeline Rate Matters

RP–1.
Omitted
RP–2.
Docket No. RP85–39–003, Wyoming Interstate Company, Ltd.

II. Producer Matters

CI–1.
Reserved

III. Pipeline Certificate Matters

CP–1.
Docket No. CP85–879–000, Williston Basin Interstate Pipeline Company
CP–2.
Docket No. RP86–14–004, Columbia Gulf Transmission Company
Docket No. RP86–15–004, Columbia Gas Transmission Corporation

C-3.

Docket No. CP84-342-002, Southern Natural Gas Company

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-5131 Filed 3-5-86; 3:01 pm]

BILLING CODE 6717-01-M

5

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: Approximately 11:00 a.m., Wednesday, March 12, 1986, following a recess at the conclusion of the open meeting.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Street, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposed purchase of computers within the Federal Reserve System.
2. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
3. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204. You may call (202) 452-3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: March 5, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-5086 Filed 3-5-86; 10:50 am]

BILLING CODE 6210-01-M

6

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 10:00 a.m., Wednesday, March 12, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Summary Agenda

Because of its routine nature, no substantive discussion of the following item is anticipated. This matter will be voted on without discussion unless a member of the Board requests that the item be moved to the discussion agenda.

1. Publication for comment of an application by the State of Wisconsin for an exemption from Subpart B of Regulation AA (Unfair or Deceptive Acts or Practices).

Discussion Agenda

2. Proposed revisions to Regulations D (Reserve Requirements of Depository Institutions) and Q (Interest on Deposits) to reflect the expiration of the Depository Institutions Deregulation Act. (Proposed earlier for public comment; Docket No. R-0565)
3. Any items carried forward from a previously announced meeting.

Note.—This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452-3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, DC 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452-3204.

Dated: March 5, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-5087 Filed 3-5-86; 10:51 am]

BILLING CODE 6210-01-M

federal register

Friday
March 7, 1986

Part II

Department of State

Gifts to Federal Employees From Foreign Governments Reported to Employing Agencies in Calendar Year 1985

DEPARTMENT OF STATE

[Public Notice 956]

Gifts to Federal Employees From Foreign Governments Reported to Employing Agencies in Calendar Year 1985

The Department of State submits the following comprehensive listing of the statements which, as required by law, Federal employees filed with their employing agencies during calendar year 1985 concerning gifts received from foreign government sources. The compilation includes reports of both tangible gifts and gifts of travel or travel expenses of more than minimal value, as defined by statute.

Publication of this listing in the **Federal Register** is required by section 7342(f) of Title 5, United States Code, as added by section 515(a)(1) of the Foreign Relations Authorization Act, Fiscal Year 1978 (Pub. L. 95–105, August 17, 1977, 91 Stat. 865).

Dated: February 21, 1986.

Ronald I. Spiers,

Under Secretary for Management.

Executive Office of the President, All Gifts Received From Foreign Officials Over Minimum Dollars

REPORT OF TANGIBLE GIFTS

[Jan. 1 through Dec. 31, 1985]

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
President and First Lady	Historic artifacts; Antique platter, Strasbourg faience, manufactured by the workshop of Paul and Pierre Hannong between 1754–1762; 15" x 11¾". Archives, foreign. Recd: May 8, 1985. Est. value: $250.	His Excellency and Mrs. Pierre Pflimlin, President of the European Parliament.	Non-Acceptance would have caused Donor Embarrassment.
Do	Photograph: And inscribed black and white photograph of President and Mrs. Alfonsin in a silver frame with gold Argentine seal at top; 13" x 17"13¾" wide. Residence; for official use/display. Recd: Mar. 19, 1985. Est. value: $1000.	His Excellency Raul R. Alfonsin, President of the Argentine, Nation, Argentina.	Do.
Do	Flowers: Fifty long-stemmed red California roses with baby's breath. Residence; for official use/display. Recd: Dec. 20, 1985. Est. value: $200.	His Excellency and Mrs. Ghazi Mohamed Algosaibi, Ambassador of the State of Bahrain, Bahrain.	Do.
Do	Photograph: Leather album of 28 color photographs of the Reagans and the Mulroneys, Et Al.; gold-stamped cover lettered "The Shamrock Summit. Quebec City, March 17–18, 1985" with the names of the Prime Minister and the Reagans, inscribed; 11½" x 13". ($375); Archives, foreign.	The Right Honorable, Brian Mulroney, P.C., M.P., Prime Minister of Canada, Canada.	Do.
	Photograph: an inscribed color photograph of the Prime Minister and Mrs. Mulroney by Karsh in a navy blue lether frame, 12" x 15", ($275). West Wing; for official use/display. Recd: Mar. 17, 1985. Est. value: $650.		Do.
Do	Household: Handblown glass vase with blue-green swirl design by Jean Valleres. Signed; 9" HIGH x 7" diameter. Archives, Foreign. Recd: Mar. 15, 1985. Est. value: $300.	The Honorable Jean Pelletier, Mayor of Quebec City, Canada.	Do.
Do	Photograph: Color photograph of President and Mrs. Li, inscribed; in black wood frame with gold painted liner; 12" x 14" overall. Archives, foreign. Recd: July 23, 1985. Est. value: $20.	His Excellency Xiannian Li, President of the People's, Republic of China, People's Republic of China.	Do.
Do	Flowers: 2,000 long-stemmed red roses, boxed; imported from Colombia. Residence; for official use/display. Recd: Apr. 4, 1985. Est. value: $9000.	His Excellency and Mrs. Belisrio Betancur, President of the Republic of Colombia, Colombia.	Do.
Do	Photograph: An inscribed black and white photograph of Prime Minister and Mrs. Schlueter in a silver-plated frame; 10¼" x 13¼" Archives, foreign. Recd: Sept. 10, 1985. Est. value: $65.	His Excellency and Mrs. Poul Schlueter, Prime Minister of Denmark, Denmark.	Do.
Do	Household: A 12" x 18" black and navy blue calfskin leather photograph Album; thirty hardboard pages with deep blue moire end sheets; decorative hand-tooleld gold borders and lettered "Ronald and Nancy." ($600); Residence; for official use/display.	Their Royal Highnesses, The Prince and Princess of Wayles, England.	Do.
	Flowers: A bouquet of pink roses and begonias, baby's breath, Queen Anne's lace, and larkspur. ($75). Residence; for official use/display. Recd: Nov. 9, 1985. Est. value: $675.		
Do	Artwork: Color lithographic print of Strasbourg Cathedral, inscribed to the President from Mayor Rudloff and lettered "May 8, 1985 Strasbourg and Europe welcome President and Mrs. Reagan;" in paper-covered folio in slipcase; 9½" x 13" Archives, foreign. Recd: May 8, 1985. Est. value: $50.	His Excellency and Mrs. Marcel Rudloff, Mayor of Strasbourg, France.	Do.
Do	Household: Ninety-six crystal glasses (12 sets of 8 different styles), each piece etched with the seal of the United States; made by Stanka Glass. ($2400); Archives, foreign.	His Excellency and Mrs. Richard Von Weitzsaecker, President of the Federal Republic of Germany, Federal Republic of Germany.	Do.
	Photograph: Color Photograph of the Von Weiezsaeckers, inscribed; in silver frame ($835) with gold German eagle at top; 11" x 13½" overall. ($265). Archives, foreign. Recd: May 2, 1985. Est. value: $2665.		
Do	Clothing and accessories: Two brown leather jackets with slash and flap pockets and shearling collars; "RR" and "NR" on pockets and inside each jacket; labeled "Trussardi." Contained in black nylon zippered bags with leather handles; one bears leather disc lettered "RR, the President," and the other "NR" and the Trussardi label. Archives, Foreign. Recd: Mar. 5, 1985. Est. Value: $1020.	His excellency Bettino Craxi, President of the Council of Ministers of the Italian Republic, Italy.	Do.
Do	Artwork: Silk embroidered picture of three horses in a 3-dimensional effect by Ms. Kyung Sook Chun; in a leather-covered wood frame with inscription; image: 25½" x 50½"; overall: 34" x 60" Archives, foreign. Recd: Apr. 26, 1985. Est. value: $1500.	His Excellency and Mrs. Chun Doo Hwan, President of the Republic of Korea, Republic of Korea.	Do.
Do	Household: Sterling silver cigarette box engraved with facsimile signatures of the Prince and Princess, the royal crest, and "9-30-85" on lid; wood lined and crafted by "Texler"; 11" x 6" x 2½"; plaque inside lid lettered "in memory of the visit by the reigning Prince Franz Joseff II and Princess Gina of Liechtenstein to the White House Sept. 30, 1985", 3¼" x 2". Enclosed in a velvet-covered, fitted box 13½" x 9" x 3" Residence; for official use/display. Recd: Sept. 30, 1985. Est. value: $800.	Their Serene Highnesses Frank Josef II and Gina the Prince and Princess of Liechtenstein, Liechtenstein.	Do.

Executive Office of the President, All Gifts Received From Foreign Officials Over Minimum Dollars—Continued

[Jan. 1 through Dec. 31, 1985]

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Do	Photograph: Color photograph of President Machel, inscribed; under glass in handmade wood frame; 19" x 23" overall. Archives, foreign. Recd: Sept. 19, 1985. Est. value: $120.	His Excellency Samora Moises Machel, President of the People's Republic of Mozambique, Mozambique.	Do.
Do	Flowers: Topiary teddy bear, designed from boxwood and decorated with pine cones, lily of the valley, and ribbons. Residence; for official use/display. Recd: Dec. 20, 1985. Est. value: $200.	His Excellency and Mrs. Abdelkader Braik Al-Ameri, Ambassador of the State of Qatar, Qatar.	Do.
Do	Flowers: A large basket of mixed flowers. Residence; for official use/display. Recd: July 12, 1985. Est. value: $250.	His Majesty Fahd Ibn Abd Al-Aziz Al Saud, King of Saudi Arabia, Saudi Arabia.	Do.
Do	Flowers: A large basket of mixed flowers. Residence; for official use/display. Recd: July 16, 1985 Est. value: $250.	....do	Do.
Do	Flowers: A large basket of mixed flowers. Residence; for official use/display. Recd: July 18, 1985. Est. value: $250.	....do	Do.
Do	Flowers: A large basket of mixed flowers. Residence; for official use/display. Recd: July 22, 1985. Est. value: $250.	....do	Do.
Do	Flowers: A large basket of mixed flowers. Residence; for official use/display. Recd: July 24, 1985. Est. value $250.	....do	Do.
Do	Flowers: A large basket of mixed flowers. Residence; for official use/display. Recd: July 26, 1985. Est. value: $250.	....do	Do.
Do	Household: A gold pitcher and tray set consisting of a pitcher (925) designed as an eagle with hinged head and "feather-tipped" amethysts, 13" tall x 5" wide; two tumblers with "feather-tipped" amethysts at base, 4¾" tall x 3" diameter; and a tray with "feather-tipped" amethyst handles, 19" x 9¾". All contained in a green leather case with Saudi gold seal, 22½" x 19" x 11"; created by Wolfres of Brussels. ($5000); Residence; for official use/display. Photograph: Color photograph of King Fahd, inscribed; in sterling silver frame with gold bordered design by Asprey of London; frame is 15¾"K x 11¾"; in a green leather case with gold-stamped Saudi crest; 16¾" x 13" x 1½". ($1000). West wing; for official use/display. Recd: Feb. 11, 1985. Est. value: $6000..	....do	Do.
Do	Photograph: A color photograph of Prime Minister and Mrs. Lee, inscribed; displayed in a sterling silver frame; 9¼" x 11¼". Archives, foreign. Recd: Oct. 8, 1985. Est. value: $100.	His Excellency Lee Kuan Yew, Prime Minister of the Republic of Singapore, Singapore.	Do.
Do	Photograph: Color Photograph of King Juan Carlos and Queen Sofia, inscribed; in sterling silver frame, 15¾" x 11¾"; in blue leather case with royal seal. ($320); Archives, foreign. Photograph: Album of color photographs of their Majesties King Juan Carlos and Queen Sofia with the President and Mrs. Reagan; navy blue vinyl album with gold-stamped crest on cover. ($350). Archives, foreign. Recd: May 6, 1985. Est. value: $670.	Their Majesties Juan Carlos I and Queen Sofia, the King and Queen of Spain, Spain.	Do.
Do	Photograph: Color photograph of Queen Sirikit in a sterling and niello frame. Residence; for official use/display. Recd: Mar. 11, 1985. Est. value: $1000.	Her Majesty Sirikit, Queen of Thailand, Thailand.	Do.
Do	Household: A 100% wool, late 19th century antique Turkish kelim carpet in colors of dark blue, red, green, black, and pink; 40½" x 69½" ($1200); Archives, foreign. Book: "L'Orient" by Eugene Flandin, Published by Jules Claze and Company, Paris, 1964; Number 1978, in conformity with the 1852 edition. ($600); Archives, foreign. Artwork: Two Turkish Hereke handwoven silk wall-hangings; One depicts President Reagan (signed, dated and numbered: 1984, # 10894), 15⅞" x 20"; and, one of the President and Mrs. Reagan (signed, dated and numbered: 1985, ± 10893), 15" x 21½". ($1000); Archives, foreign. Photograph: Color photograph of Prime Minister and Mrs. Ozal, signed and dated April 2, 1985; in silver frame with matt finish, hand-chased with applied geometric design border and leaf swag decoration; 9¼" x 11¾" ($750); Archives, foreign. Artwork: Portrait of the President and Mrs. Reagan, oil on canvas, by Cemil Karababa, Ankara, signed, 1985; canvas, 89" x 61"; included is a dismantled wooden, pegged frame. ($2500). Archives, foreign. Recd: Apr. 2, 1985. Est. value: $6050.	His Excellency Turgut Ozal, Prime Minister of the Republic of Turkey, Turkey.	Do.
Do	Consumables: Twelve 2-ounce jars of caviar and three bottles of vodka; all produced in the U.S.S.R. Perishable. Recd: Nov. 27, 1985. Est: value: $750.	His Excellency Mikhail Gorbachev, General Secretary of the Central Committee of the Communist Party of the Soviet Union, Union of Soviet Socialist Republics.	Do.
Do	Household: A Samovar, 10" wide x 14" tall, and matching tray, 12" x 16"; both with a lacquered floral and fruit design. ($200); Archives, foreign. Household: A lacquered box with a medieval scene pictured on top, black sides with decorative painted gold border and solid red interior; 6½" x 4" x 1½" deep. ($450). Residence; For official use/display. Recd: Sept. 27, 1985. Est. value: $650.	His Excellency and Mrs. Eduard A. Shevardnadze, Minister of Foreign Affairs of the Union of Soviet Socialist Republic, Union of Soviet Socialist Republics.	Do.
President	Athletic equipment: Birchwood saddle with camel skin and kidskin cover, breast, and bellyband; handforged iron bit; a heavy embroidered pure gold cover in floral designs done in relief with brass stirrups; contained in a wood chest, 40" x 34" x 36"; all items hand-crafted. ($2100); Archives, Foreign. Consumables: 36 bottles of assorted Algerian wine and 2 baskets of dates on vine. ($336); Perishable. Stamps: Leather Album of assorted New Algerian Postage stamps. ($50). Archives, foreign. Recd: Apr. 17, 1985. Est. Value: $2486.	His Excellency Colonel Chadli Bendjedid, President of the Democratic and Popular Republic of Algeria, Algeria.	Do.
Do	Clothing and Accessories: A brown leather Gaucho belt with three sizes of Argentine coins dated 1882, contained in box with engraved silver plaque; and, silver and leather, handcrafted spurs in a box with an engraved plaque. Archives, foreign. Recd: Mar. 19, 1985. Est. Value: $2000.	His Excellency Raul R. Alfonsin, President of the Argentine Nation, Argentina.	Do.
Do	Audio/Visual recording: Three VHS videocassettes of the films "The Man From Snowy River," "My Brilliant Career," and "Gallipoli." Archives, foreign. Recd: Feb. 07, 1985. Est. Value: $180.	The Honorable and Mrs. Robert Hawke, M.P. Prime Minister of Australia, Australia.	Do.

Executive Office of the President, All Gifts Received From Foreign Officials Over Minimum Dollars—Continued

[Jan. 1 through Dec. 31, 1985]

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Do	Coin: A 1984 $100 22 kt. Gold Canadian coin, struck by the Royal Canadian Mint; enclosed in leather case bearing Maple Leaf Emblem. Archives, foreign. Recd: Jan. 16, 1985. Est. Value: $260.	The Honarable Edward M. Lawson, Senator, The Senate, Canada.	Do.
Do	Artwork: Eskimo stone carving of a walrus, by J. Eyuadluluk: 19" long x 8" wide x 8½" high. West wing; for official use/display. Recd: Mar. 17, 1985. Est. Value: $1400.	The Right Honorable Brian Mulroney, P.C., M.P., Prime Minister of Canada, Canada.	Do.
Do	Household: A six panel folding screen, rosewood frame with bird and floral motifs of soapstone, malachite, sodalite, mother-of-pearl, etc., on a cinnabar background; handcarved; each panel measures 80" high x 20¼" wide x 2" thick. ($3500); Archives, foreign. Household: Chops or seals, marble with carved floral motif and Chinese characters etched on side; included is a white china dish containing red wax for seals, with a blue dragon design depicted on lid. ($60). Archives, foreign. Recd: July 23, 1985. Est. value: $3560.	His Excellency, Xiannian Li, President of the People's Republic of China, People's Republic of China.	Do.
Do	Artwork: Scroll depicting an oriental gentleman, with chalkigraphy at right side done on paper with simulated fabric ends attached to wood poles; enclosed in fabric-covered case; 105" x 27". Archives, foreign. Recd: Sept. 20, 1985. Est. value: $200.	The Honorable Renzhong Wang, Vice Chairman, Standing Committee on the National People's Congress, People's Republic of China.	Do.
Do	Artwork: Sculptured metal figure of a nude woman with bow in hair by Botero, signed; number 4 of a limited edition of 9: 14" high x 16" long x 13" deep; displayed on removable white base with engraved brass presentation plaque attached; contained in white wood box, measuring 19½" x 20" x 15¾". ($20,000); Oas Museum of Modern Latin American Art; for official use/display. Artwork: Clay sculpture of a "Precolumbian" figure with brass ring in nose, entitled "Retablo"; 7½" high x 4½" deep x 7" wide; included is a certificate authenticating figure to be from the Quimbaya Culture originating in the Montenegro Area of Colombia and made between 600 A.D. to 1600 A.D.. ($500); Archives, foreign. Book: "Atlas de Cartografia Historica de Colombia" published by the Instituto Geografico Agustin Codazzi, Instituto Colombiano de Cultura, Archivo Historico Nacional, 1985; a reproduction of the original maps; Spanish text; simulated leather binding. ($200). Archives, foreign. Recd: Apr. 4, 1985. Est. value: $20700.	His Excellency and Mrs. Belisario Betancur, Predident of the Republic of Colombia, Colombia.	Do.
Do	Household: A glazed ceramic birdbath, blue and white pedestal design, depicting a young girl in modernistic motif; made in Denmark; 24" tall, 13½" in diameter across top. Archives, foreign. Recd: Sept. 10, 1985. Est. value: $250.	His Excellency and Mrs. Poul Schlueter, Prime Minister of Denmark, Denmark.	Do.
Do	Artwork: Portrait of President Reagan with the Great Sphinx at the left and a Cartouche with the President's name at the right; on papyrus by Hassan Said, Signed; 20¼" x 14⅜"; under glass in brown wood frame; overall: 19½" x 25". Archives, foreign. Recd: Mar. 12, 1985. Est. value: $600.	His Excellency Mohammad Hosni Mubarak, President of the Arab Republic of Egypt, Egypt.	Do.
Do	Medallion: Bronze medallion lettered "Strasbourg" and depicting Cathedral and Porte de France, Ville D'Europe on reverse; 2¾" diameter. Archives, foreign. Recd: May 8, 1985. Est. value: $50.	His Excellency and Mrs. Marcel Rudloff, Mayor of Strasbourg, France.	Do.
Do	Photograph: Album of twenty-seven color photographs of President Reagan, Chancellor Kohl, et al.; in black simulated leather album with German Eagle on cover; inscribed. ($75); Archives, foreign. Household: Hexagonal amethyst-quartz bowl by H. Wolf, signed; 7" diameter, 4¼" deep. ($800). Archives, foreign. Recd: May 10, 1985. Est. value: $875.	His Excellency Dr. Helmut Kohl, Chancellor of the Federal Republic of Germany, Federal Republic of Germany.	Do.
Do	Consumables: 2 bottles of Riesling Beerenauslese Wine, 1976; 2 bottles of Rheinpfalz Wine, 1976; 8 bottles of Riesling Spatlese Wine, 1979 through 1983; enclosed in a wood crate, bearing the German Eagle Emblem. Perishable. Recd: Dec. 19, 1985, Est. value: $280.	....do	Do.
Do	Stamps: Black leather album of uncancelled and cancelled German postage stamps, Cachets, etc., covering all those issued from 1968 through 1984, including sets of stamps commemorating the occupation of Berlin, printed in Washington, DC London, and Braunschweig. Archives, foreign. Recd: Aug. 5, 1985. Est. value: $1150.	His Excellency Dr. Christian Schwarz-Schilling, Federal Minister of Posts and Telecommunications, Federal Republic of Germany.	Do.
Do	Photograph: Leather album of 49 color photographs of the President, Mrs. Reagan, Chancellor Kohl, et al., taken during visit to the Federal Republic of Germany; each photograph is 7" x 9½". Archives, foreign. Recd: Aug. 2, 1985. Est. value: $335.	His Excellency Richard Von Weizsaecker, President of the Federal Republic of Germany, Federal Republic of Germany.	Do.
Do	Artwork: Modernistic oil painting of a horse with human hand in background signifying goodwill, entitled "Ashwamedh" by Hussain, signed, 1985; on stretcher frame; 48½" x 48¾". Archives, Foreign. Recd: June 12, 1985. Est. value: $500.	His Excellency Rajiv Gandhi, Prime Minister of India, India.	Do.
Do	Artwork: set of ten color serigraphs titled "Ben Gurion," by Yaacov Agam, each signed by artist and inscribed by Shimon Peres; published by Armand and Georges Israel publishers with preface by Abba Eban and printed in Paris especially for Shimon Peres; editor's proof 14 of 40; each print is 17" x 21½"; included is a multigraph depicting facsimile signature of artist; all contained in a blue velvet case. Archives, foreign. Recd: Oct. 17, 1985. Est. value: $10000.	His Excellency Shimon Peres, Prime Minister of Israel, Israel.	Do.
Do	Artwork: Model of one of Christopher Columbus' three sailing ships; silver and gold filigree design, mounted on inscribed base; overall: 10" x 6" x 3½"; in a navy blue fabric-covered box, 11¼" x 8½" x 4½". West wing; for official use/display. Recd: Mar. 5, 1985. Est. value: $1000.	The Honorable Rinaldo Magnani, President, Liguria Regional Government, Italy.	Do.
Do	Household: Two deep blue cloisonne covered bowls with silvered bases by Hinode; 4½" high x 3½" diameter and 6" high x 4½" diameter. ($90); Archives, foreign. Artifact: Gourd, inscribed, "Ron, Yasu, souvenir of Hinode, Tokyo, Nov. 11, 1983;" 13" high; displayed on a wood stand. ($20). Archives, foreign. Recd: Jan. 2, 1985. Est. value: $110.	His Excellency and Mrs. Yasuhiro Nakasone, Prime Minister of Japan, Japan.	Do.
Do	Household: Demitasse set consisting of a pitcher, tray, and six cups; all of sterling silver (925) with decorative gold inlaid design; made by Deyhle, Germany; six additional porcelain cup liners by Limoges, with gold band and bearing crown design; tray, 14" in diameter; pitcher, 11" tall; and cups 2½" in diameter. Archives, foreign. Recd: May 29, 1985. Est. value: $2600.	His Majesty Al Hussein I, King of the Hashemite Kingdom of Jordan, Jordan.	Do.

Executive Office of the President, All Gifts Received From Foreign Officials Over Minimum Dollars—Continued

[Jan. 1 through Dec. 31, 1985]

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Do	Flowers: Thirty-eight pink roses in a basket. ($144); Residence; for official use/display.	His Excellency and Mrs. Chun Doo Hwan, President of the Republic of Korea, Republic of Korea.	Do.
	Consumables: Two tins of Red Ginseng. ($26). Perishable. Recd: Feb. 5, 1985. Est. value: $170.		
Do	Flowers: A large arrangement of mixed flowers. Residence; for official use/display. Recd: July 13, 1985. Est. value: $400.	His Majesty Hassan II, King of Morocco, Morocco.	Do.
Do	Flowers: A large arrangement of mixed flowers. Residence; for official use/display. Recd: July 15, 1985. Est. value: $400.	do	Do.
Do	Flowers: A large arrangement of mixed flowers. Residence; for official use/display. Recd: July 16, 1985. Est. value: $800.	do	Do.
Do	Flowers: A large arrangement of mixed flowers. Residence; for official use/display. Recd: July 18, 1985. Est. value: $425.	do	Do.
Do	Flowers: A large arrangement of mixed flowers. ($400); residence; for official use/display.	do	Do.
	Consumables: Six one-pound boxes of Lenotre (Paris) candies and a fruit basket. ($250). Perishable. Recd: July 19, 1985. Est. value: $650.		
Do	Flowers: A large arrangement of mixed flowers. ($425); residence; for official use/display.	do	Do.
	Consumables: A ten-pound box of "Teuscher" chocolates from Switzerland. ($300). Perishable. Recd. July 20, 1985. Est. value: $725.		Do.
Do	Artwork: Rosewood carving of five human heads and hands touching one another, entitled "We all see the problems of the world," carved from one piece of wood, by Alberto Chissano; detached engraved brass plaque; 29½" high x 34" deep x 19" Wide. Archives, foreign. Recd: Sept. 19, 1985. Est. value: $3500.	His Excellency Samora Moises Machel, President of the People's Republic of Mozambique, Mozambique.	Do.
Do	Athletic equipment: A "Sporting Shot Gun" No. A-0003, 12-bore, 43½" long, 5¾ pounds, specially manufactured for President Reagan by Messrs. Kamal Din & Sons; engraved on barrel; broken down and stored in brown leather case attached with engraved presentation plaque. ($8000); Archives, foreign.	His Excellency General, M. Zia-Ul-Haq, President of the Islamic, Republic of Pakistan, Pakistan.	Do.
	Books: Eleven leather-bound volumes on Pakistan's history and culture; and two cloth-bound books, "An Historical Atlas of Islam," edited by William C. Brice, 1981, and "Iqbal" (poet of the East), an illustrated volume with Pakistani text; matching slipcase. All enclosed in a dark brown leather carrying case with brass combination locks, measuring 19" x 14" x 9½. ($300). Archives, foreign. Recd: Oct. 23, 1985. Est. value: $8300.		
Do	Artwork: White marble column with a brass sliver at top, titled "Sun Dial," by Charters de Almeida; 38¾" high x 7¼" wide x 4¼" deep. ($2,000); Archives, foreign.	His Excellency General Antonio Dos Santos Ramalho, Eanes, President of the Portuguese, Republic, Portugal.	Do.
	Artwork: A silkscreen print of the sculpture, "Sun Dial," signed by the artist; number 1 of 15; on heavy paper displayed in plexiglass shadowbox frame; 35½" x 27¾"; included is a frontispiece in folio and a booklet on the artist. Archives, foreign. Recd: May 8, 1985. Est. value: $2095.		
Do	Consumables: Eight bottles of port wine: "Pocas Junior, 40-year-old port bottled 1984; " "Cockburn's 1963 vintage;" "Croft 20-year-old finest tawny port," "Dalva Porto Colheita 1952 Golden White", bottled 1982; "Krohn Port Colheita 1960," bottled 1985; "Taylor's 30-year-Old tawny port;" "Porto Ca'lem 10 years old;" and "Duque de Braganca Port Wine Grande." ($190); perishable.	His Excellency General, Antonio Dos Santos Ramalho Eanes, President of the Portuguese Republic, Portugal.	Do.
	Household: Handcrafted wood chest with wrought iron hardware and engraved plaque on lid; key included; 19" x 13½" x 12¾". ($150). Archives, foreign. Recd: July 17, 1985. Est. value: $340.		
Do	Photograph: Sixty-eight 5" x 7" color photographs of the President, et al., during visit to Portugal, by Alves Pinto; stamped on reverse and displayed in a manila folder. Archives, foreign. Recd: July 5, 1985. Est. value: $204.	The Honorable, Fernando Monteiro Do Amaral, President of the National Assembly of the Portuguese Republic, Portugal.	Do.
	Household: Porcelain vase, a copy of Japanese amari, by Vista Alegre, 16" High. Archives, foreign. Recd: May 9, 1985. Est. value: $350.	The members of the National Assembly of the Portuguese Republic Portugal.	Do.
Do	Household: Porcelain inkstand, white with blue and gold decoration, "RWR" on two sides and an American eagle design depicted on removable lid; removable interior ink receptacle; four openings for quills on top; by "Vista Alegre," Portugal; handpainted; inscribed on underside; 5" x 3" x 3"; contained in velvet box; included is a silver ballpoint "quill" pen, 8¾" long. Archives, foreign. Recd: May 8, 1985. Est. value: $375.	His Excellency Mario Soares, Prime Minister of Portugal, Portugal.	Do.
Do	Flowers: A large mixed flower arrangment in birdsnest style basket. Residence; for official use/display. Recd: Feb. 7, 1985. Est. value: $200.	His Royal Highness Prince Bandar Bin Sultan, Ambassador of Saudi Arabia, Saudi Arabia.	Do.
Do	Artwork: An enameled egg with gold interior, containing a gold clock with hinged panels bearing the Saudi seal and the U.S. Presidential seal surrounded by diamond chips, with spaces for photographs on inside; a miniature gold easel is included for clock as well as one for the egg; by Asprey & Co., London overall, 1½" x 1½"; contained in a black leather box, 4¼" x 3¾" x 3". ($12,500); Residence; for official use/display.	His Majesty Fahd Ibn abd Al-Aziz Al Saud, King of Saudi Arabia, Saudi Arabia.	Do.
	Photograph: Two color photographs of "Al Hamdaniyah" (Chestnut) and "kuhailan" (Gray) breed of Arabian horses, maintained, for decades by the Royal Family of Saudi Arabia; in bright gold wood frames; 24" x 28" overall; included are two gold-metal framed "Certificates of Origin" and two framed pedigrees on the breeds; 28" x 24", and 12" x 16" ($690). Archives, foreign. Recd: Feb. 11, 1985. Est. Value: $13,190.		
Do	Artwork: A gold medallion (999.9 fine gold) depicting likenesses of the President and Mrs. Reagan and Seals of the U.S. and Singapore; 1⅞" in diameter. Archives, foreign. Recd: Oct. 8, 1985. Est. Value: $640.	His Excellency Lee Kuan Yew, Primer Minister of the Republic of Singapore, Singapore.	Do.
Do	Artwork: Two original engravings of bullfigthing scenes from Francisco Goya's collection, "La Tauromaquia", unsigned, numbered 13 and 27 respectively; 17" x 13"; under glass in walnut frames, 24" x 20". Residence; for official use/display. Recd: May 7, 1985. Est. Value: $1000.	His Excellency and Mrs. Felipe Gonzalez Marquez, President of the Government of Spain, Spain.	Do.

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Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Do	Athletic equipment: Black leather saddle, lambswool sheath, black and white fabric tie lettered "R" in leather; Attached with two large black iron stirrups attached to brown leather straps; brown cover; including a brown leather bridle with black iron bit archives, foreign. Recd: May 6, 1985. Est. Value: $500.	Their Majesties, Juan Carlos I and Queen Sofia, the King and Queen of Spain, Spain.	Do.
Do	Assortment: Color Photograph of Prime Minister Premadasa and his family in golden wood frame, 12½" x 15" overall, in velvet case; shirt and overgarment in handmade batik, x=Large; copy of book, "Ranasinghe Premadasa" (Prime Minister with a vision), edited by Christy Cooray; and, two folders of information on Sri Lanka and the Prime Minister. Archives, foreign. Recd: Oct. 23, 1985. Est. Value: $485.	His Excellency R. Premadasa, Prime Minister of the Democratic Socialist Republic of Sri Lanka, Sri Lanka.	Do.
Do	Artwork: Elephant figure made of rosewood overlaid with silver and decorated with semi-precious stones 10½" High X 7" Long x 4½" Wide: Displayed in a velvet case depicting seal of Sri Lanka on lid. Archives, foreign. Recd: Oct. 20, 1985. Est. value: $700.	Mrs. R. Premadasa, wife of the Prime Minister of the Democratic Socialist Republic of Sri Lanka, Sri Lanka.	Do.
Do	Household: Atmos (works on air) clock, 14-jeweled, brass works with roman numeral face, displayed in a brass-framed glass case: by Jaeger-Lecoultre; Engraved plaque attached; 9" x 8" x 6½". Archives, foreign. Recd: Nov. 19, 1985. Est. Value: $950.	Mr. Rene Emmenegger, Mayor of the City of Geneva Switzerland.	Do.
Do	Household: clock, key-wound and strike model, footed-pedestal style, black case with gold-painted trim and finial, beige-painted floral design, white enameled face with black roman numerals; crafted by Le Castel in Switzerland; 15" Wide, 5½" Deep, 37" Tall. Archives, foreign. Recd: Nov. 16, 1985. Est. Value: $2700.	His Excellency Kurt Furgler, President of the Swiss Confederation, Switzerland.	Do.
Do	Books: "Switzerland illustrated," by William Beattie, M.D. (in a series of views taken on the spot and expressly for this work), by W. H. Bartlett, Esq.: Volumes I and II, Published by George Virtue. London, 1836; Volume I only inscribed; navy blue leather binding with gold tooling. Archives, foreign. Recd: Nov. 19, 1985. Est. value: $400.	Mr. Jacques Vernet, President, Stae Council of the Republic and Canton of Geneva, Switzerland.	Do.
Do	Artwork: Ivory Elephant, overlaid with gold and containing rubies, sapphires, and diamonds, on a teak base. (From the King of Thailand's personal collection): Residence; For official use display. Recd: Mar. 11, 1985 Est. Value: $15000.	Her Majest Sirikit, Queen of Thailand, Thailand.	Do.
Do	Award: The "Grand Cordon De L'Ordre De L' Independance" (a starburst pin with smaller starburst drop-pin on ribbon) and certificate conveying Tunisia's highest award. ($270); Archives, foreign. Photograph: A black and white photograph of President Bourguiba, inscribed; in a silver (800) frame with Tunisian crest at top; Overall 9½" x 11¾"; contained in green leather case with crest. ($250); Archives, foreign. Photograph: A black and white photograph of President Bourguida and former American consul in Tunis, Mr. Doolittle; Inscribed to the President by President Bourguiba; in silver (835) frame; overall 11" x 13½" and contained in a green leather case with crest. ($275); Archives, foreign. Artwork: Circular mosaic of a male figure resembling a roman governor, unsigned, in sepia tones in brown wood frame; 31½" in diameter. ($850). Archives, foreign. Recd: June 18, 1985. Est. Value: $1645.	His Excellency Habib Bourguiba, President of the Republic of Tunisia, Tunisia.	Do.
Do	Medallions: A set of fifteen bronze medallions; each depicting the name of a Soviet territory and the flag of the U.S.S.R.; each measures 1¾" in diameter; and one 3" square bronze medallion lettered "CCCP;" all displayed in a fitted red vinyl case. ($250); Archives, foreign. Artwork: Lacquered plaque depicting the Kremlin, by C. Pedocknho, 1985, signed; 15" x 11¼"; included in a simulated wood box. ($1000). Archives, foreign. Recd: Nov. 19, 1985. Est. value: $1250.	His Excellency, Mikhail Gorbachev, General Secretary of the Central Committee of the Communist Party of the Soviet Union, Union of Soviet Socialist Republics.	Do.
Do	Medallions: A set of fifteen bronze medallions, each depicting the name of a Soviet territory and the flag of the U.S.S.R.; each measures 1¾" in diameter; on one 3" square bronze medallion lettered "CCCP;" all displayed in a fitted red vinyl case ($250); Archives, foreign. Book: "Moscow," Planeta Publishers, Moscow, 1984. ($45). Archives, foreign. Recd: Mar. 7, 1985. Est. value: $295.	The Honorable Vladmir Vasil'yevich Shcherbitskiy, First Secretary of the Central Committee of the Communist Party of the Ukraine, Union of Soviet Socialist Republics.	Do.
Do	Fabric: "Mensoudj" fabric, white silk with silver yarn design, handmade; 115" long x 45" wide. ($450); Archives, foreign. Household: Jewely box, 7" x 5" x 4", and a handheld mirror, 8" long; all made of silver ($950) with coral and enameled motifs, called "Benni Yenni"; handcrafted. ($600); Residence; for official use display". Assortment: Bracelet, 3" wide, and a perfume vial, 5" tall; all made of silver (950) with coral and enameled motifs, called "Benni Yenni;" handcrafted; with a 7½" x 10½" x 8½" wood box container. ($335). Archives, foreign. Recd: Apr. 17, 1985. Est. value: $1385.	His Excellency Colonel Chadli Bendjedid, President of the Democratic and Popular Republic of Algeria, Algeria.	Do.
Do	Clothing and accessories: Wool (vicuna) poncho, burgundy with black stripe and black fringe handwoven and handsewn. ($3000); Archives, foreign. Clothing and accessories: Black leather belt with silver ($800) chains and mother-of-pearl silver buckle with "NR" in gold; contained in box with silver presentation plaque. ($750). Archives, foreign. Recd: Mar 19, 1985. Est. value: $3750.	His Excellency, Raul R. Alfonsin, President of the Argentine Nation, Argentina.	Do.
Do	Book: "Historic Buildings" by Australia's National Trusts, Edition Published in 1984 by Reed Books, Ltd., New South Wales. Archives, foreign. Recd: Feb. 7, 1985. Est. value: $33.	The Honorable and Mrs. Robert Hawke, M.P., Prime Minister of Australia, Australia.	Do.
Do	Fabric: One bolt of light Taupe color silk with overall floral design; 18 feet long x 43 inches wide. Archives, Foreign. Recd: Nov. 4, 1985. Est. value: $180.	Mrs. Raushan Ershad, wife of the President of the People's Republic of Bangladesh, Bangladesh.	Do.
Do	Household: Pewter coffee and tea service consisting of a coffee pot with wooden handle, 10" high; teapot with wooden handle, 8" high; creamer 4½" high; sugar pot with spoon, 5" high; and, a polished wood serving tray with pewter handles, 22" long x 12¾" wide x 4" deep; by John Somers, Brazil; (crafted in President Neves' hometown). Archives, foreign. Recd: Jan. 31, 1985. Est value: $325.	Mrs. Tancredo de Almeida Neves, wife of the President of Brazil, Brazil.	Do.

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Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Do.	Artwork: Eskimo stone carving of a bird by S. Elaiyakta, 10" high. ($460); West Wing; for official use/display. Household: Sixteen placemats (2 sets of 8 each) depicting a color print of an original painting of an outdoor Canadian scene by Cornelius Krieghoff; mounted on red background with gold felt backing; permanized coating; each print 7½"x11"; overall 12"x16"; in two blue leatherette-covered cases; 13"x17" ($480). Archives, foreign. Recd. Mar. 17, 1985. Est. value: $940.	The Right Honorable Brian Mulroney, P.C., M.P., Prime Minister of Canada, Canada.	Do.
Do.	Household: White organdy tablecloth with floral motif; 8 feet long x 67 inches wide; included are twelve matching napkins, each 17" square. ($250); Archives, foreign. Fabric: Two bolts of Chinese silk brocade fabric; one is red with white floral motif and the other is a pale pink with white floral motif; each bolt is 20 feet long x 30 inches wide. ($240); Archives, foreign. Consumables: A selection of tea. ($15); perishable. Recd: July 23, 1985. Est. value: $505.	His Excellency Xiannian Li, President of the People's Republic of China, People's Republic of China.	Do.
Do.	Household: Cloissone vase, multicolored floral design, brass-rimmed; 12" high. ($250); Archives, foreign. Fabric: Red satin with white and red bamboo floral design; 16½ feet x 30½ inches, ($110). Archives, foreign. Recd: Apr. 1, 1985. Est. value: $360.	Mrs. Ying Zhang, wife of the Ambassador of the People's Republic of China, People's Republic of China.	Do.
Do.	Household: A white softpaste porcelain bonbonniere or covered dish decorated with green floral design and handles and a gold-bordered motif; by Flora Danica of Royal Copenhagen; 3½" in diameter, 2" high. Archives, foreign. Recd: Sept. 10, 1985. Est. value: $525.	His Excellency and Mrs. Poul Schlueter, Prime Minister of Denmark, Denmark.	Do.
Do.	Clothing and accessories: A bat-style lined wool pullover top, red with black stripe design, ribbed cuffs and bottom, by Olga Fisch, labeled; a brown suede and leather purse, zippered, with two handles and brass-bit hardware; and a triangular poncho, dark brown with lighter brown and beige floral design bordered by hand. By Olga Fisch, labeled, ($420); Archives, foreign. Household: Off-white wool rug with multi-colored design, fringed on two ends; 53" long x 31" wide. ($75) Archives, foreign. Recd. Apr. 24, 1985. Est. value: $495.	Mrs. Eugenia Cordovez de Febres-Cordero, wife of the President of the Republic of Ecuador, Ecuador.	Do.
Do.	Jewelry: A handcarved Turquoise and gold scarab pendant, 1¼" in diameter. ($500) Archives, foreign. Household: A tabriz animal carpet, (new) depicting birds, camels, etc., in a forest setting with a building in background; green, brown, blue, black, and orange on a beige background; fringed on two ends; handcrafted; 76" x 53". ($2800) Archives, foreign. Recd: Mar. 12, 1985. Est. value: $3300.	His Excellency, Mohammad Hosni Mubarak, President of the Arab Republic of Egypt, Egypt.	Do.
Do.	Household: A Covered tureen and platter, crafted of heavy tin with beaded edge by Eugene Marchand signed; the tureen measures 6½" in diameter, 6½" high and the platter is 7¾" in diameter; enclosed in a maroon leather case with gold-tooled design and "NR" in center. Archives, foreign. Recd: May 8, 1985. Est. value: $800.	His Excellency and Mrs. Marcel Rudloff, Mayor of Strasbourg, France.	Do.
Do.	Artwork: Miniature portraits of Emperor Akcar and Empress Jodhacai, painted on ivory in the Mughal style and dispayed in oval silver-plated filigree frames; 4⅛" x 3⅛" overall. Residence; for official use/display. Recd: June 12, 1985. Est. value: $950.	Mrs. Sonia Gandhi, wife of the Prime Minister, India.	Do.
Do.	Clothing and accessories: Three bracelets and one belt, all of handcrafted Iraqi silver; made by "Iraqi Silversmiths Long Time Ago.". Archives, foreign. Recd: Dec. 19, 1985. Est. value: $225.	Mrs. Sahar Hamdoon, wife of the Ambassador of Iraq, Iraq.	Do.
Do.	Jewelry: Antique glass beads necklace, made betweem 63 B.C.E.-330 C.E., Roman period 20" long; displayed in a 10" x 9" x2" Myrtlewood box. Including a Certificate of antiquity from Arieh Klein Ltd. Antiquities, Jerusalem. Archives, foreign. Recd: Oct. 17, 1985. Est. value: $5000.	His Excellency Shimon Peres, Prime Minister of Israel, Israel.	Do.
Do.	Household: Six white cotton travel bags trimmed in lace and monogrammed "J" (manufacturer "Jesurum") in graduated sizes with drawstrings, button closures, etc. Archives, foreign. Recd; Mar. 5, 1985. Est. Value: $240.	His Excellency Bettino Craxi President of the Council of Ministers of the Italian Republic, Italy.	Do.
Do.	Household: A coin silver filigree bowl or bombonniere with enameled flowers on a hinged lid; A separate silver filigree base is included; Handmade by the women of Campoliguer especially for Mrs. Reagan; Displayed in a fabric-covered box; bowl is 3" x 5"; box is 9" x 8½" x 5". ($450); Archives, foreign.	The Honorable Rinaldo Magnani, President, Liguria Regional Government, Italy.	Do.
Do.	Household: Silver, ring with raised castle motif in white gold with ruby and diamond chips, engaraved "Nancy Reagan, Genoa;" and an inscribed copy (paperback) of "Christopher Columbus" by Lia Pierotti Cei. ($300). Archives, foreign. Recd: Mar. 5, 1985. Est. value: $3450.		
Do.	Jewelry: A gold bracelet with a row of emeralds and two rows of diamond chips. Archives, foreign. Recd: May 3, 1985. Est. value: $300.	His Excellency Sandro Pertini President of the Italian Republic, Italy.	Do.
Do.	Clothing and accessories: Evening bag or minaudiere; "Saga-Nishiki" (gold brocade) on brass frame with gold chain; separate interior mirror; handcrafted in Japan; 7½" x 4" 4 2¼". Archives, foreign. Recd: Apr. 24, 1985. Est. value: $550.	Mrs. Tsutako Nakasone, Wife of the Prime Minister of Japan, Japan.	Do.
Do.	Household: An electric lamp white porcelain imari vase style with handpainted floral and bird design (new); 17" high, 8" diameter; and a black lacquered tray, 8" x 11". Archives, foreign. Recd: Jan. 2, 1985. Est. value: $310.	His Excellency and Mrs. Yasuhiro Nakasone Prime Minister of Japan, Japan.	Do.
Do.	Household: A sterling silver (925) cigarette box, wood lined, engraved with facsimile signatures of the King and Queen and the Royal Jordanian crest on hinged lid; crafted by "Deyhle" in Germany; 7½" x 5¼" x 1½"; Enclosed in a suede box; 10" x 7½". Residence; for official use/display. Recd: May 29, 1985. Est. value: $250.	Their Majesties Al Hussein, King and Queen of the Hashemite Kingdon of Jordan, Jordan.	Do.
Do.	Household: Silver (999) tea set coated with "Chilbo" (multi-colored korean pigments); teapot (9" x 6" x 4"), two sugar bowls (6" x 3" x 3½"), two silver spoons, and a silver tray (13" x 9"); teapot and bowls depict Phoenix bird and floral designs; tray is plain except for minor work on handles; displayed in velvet box with interior presentation plaque. Archives, foreign. Recd: Apr. 26, 1985. Est. value: $835.	His Excellency and Mrs. Chun Doo Hwan President of the Republic of Korea, Republic of Korea.	Do.

Executive Office of the President, All Gifts Received From Foreign Officials Over Minimum Dollars—Continued

[Jan. 1 through Dec. 31, 1985]

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Do	Household: Six placemats and a table scarf; black cotton with overall gold geometric design; 18¾" x 13" and 44" x 20"; contained in a woven sisal-type open weave box; included are three woven straw envelopes or containers fitted inside one another; 12" x 6½". ($1470); Archives, foreign. Book: "Drug Abuse in East Asia" (paperback) by C.P. Spencer and V. Navaratnam, published by Oxford University Press. ($8). Archives, foreign. Recd: Apr. 24, 1985. Est. value: $1478.	Dr. Siti Hasmah Mahathir, wife of the Prime Minister of Malaysia, Malaysia.	Do.
Do	Household: Beveled oval mirror in mirrored lucite frame with wood back; engraved plaque on reverse; 22½" x 12¾"; contained in wood chest, 25" x 14½" x 2½". Archives, foreign. Recd: Apr. 14, 1985. Est. value: $250.	Mrs. Sarojini Jugnauth, Wife of the Prime Minister of Mauritius, Mauritius.	Do.
Do	Artwork: Handcarved ivory figure of a woman in a contorted position, 3" x 5". Archives, foreign. Recd: Sep. 19, 1985. Est. value: $300.	Mrs. Graca Machel, wife of the President of the People's Republic of Mozambique, Mozambique.	Do.
Do	Fabric: Deep red chiffon with gold, silver, and pearls in overall floral embroidered motif; 51" wide x 122" long; in velvet box. ($1050); archives, foreign. Household: Silk carpet, New Pakistani, overall floral medallion style motif, predominate shades of blue on beige background with darker blue borders; white fringe on two ends; 77" x 48". ($2500). Archives, foreign. Recd: Apr. 24, 1985. Est. value: $3550.	Mrs. Muhammad Zia-Ul-Haq, wife of the President of the Islamic Republic of Pakistan, Pakistan.	Do.
Do	Household: Kes, a bedspread, whose pieces can also be used as a shawl; multi-colored polished cotton fabric in patterned squares; woven by a family of weavers in district of Sukkur who expended three months in creating the Kes and whose reputation goes back 300 years; 70 inches x 16 feet, 8 inches; enclosed in a velvet-covered case. ($1500); Archives, foreign. Fabric: Black chiffon embroidered with real gold floral design overall; 13 feet x 4 feet, 3 inches; contained in a velvet-covered box. ($8000). Archives, foreign. Recd: Oct. 21, 1985. Est. value: $9500.	do	Do.
Do	Jewelry: Rhodocrosite beads with gold beads attached to a 14 kt. gold reproduction of a pre-Columbian artifact. Archives, foreign. Recd: Apr. 24, 1985. Est. value: $375.	Mrs. Maria Consuelo de Ardito Barletta, wife of the President of the Republic of Panama, Panama.	Do.
Do	Two gowns: One is black velvet and floor length with a silver sequined and rhinestone Phoenix bird design; the other is a red silk strapless gown with a rhinestone butterfly design at top and a matching jacket with same design repeated at top; both unsized and sewn by J. Moreno, Manila. Archives, foreign. Recd: Oct. 21, 1985. Est. value: $$10000.	Mrs. Imelda Marcos, first lady of the Philippines, Philippines.	Do.
Do	Household: Handmade Portuguese "Arraiolos" rug depicting a medieval countryside scene of a figure on horseback, 69" x 45¾". Archives, foreign. Recd: May 8, 1985. Est. value: $800.	Mrs. Maria Manuela Eanes, wife of the President of the Portuguese Republic, Portugal.	Do.
Do	Household: White linen tablecloth with bluish embroidered tree design; 49" x 54"; and six matching napkins; made in Portugal. Archives, foreign. Recd; Oct. 21, 1985. Est. value: $800.	do	Do.
Do	Household: Beige organdy tablecloth embroidered with floral design; 104" x 98". Archives, foreign. Recd: May 13, 1985. Est. value: $500.	Mrs. Maria Barroso Soares, wife of the Prime Minister of the Portuguese Republic, Portugal.	Do.
Do	Clothing and accessories: Evening bag or minaudiere, gold (stamped 684 on left and 750 on right), depicting "NR" in diamond chips (13 & 14) and clasp in graduated diamonds (30); beveled interior mirror; made by Boucheron in France; 6½" x 3¾" x 1¾"; contained in a beige suede box lettered "NR"; 8¼" x 6" x 3". ($20,000); Archives, foreign. Clothing and accessories: A green silk outfit with hand-embroidered sequiuned floral and gold-thread designs, and a fuschia shaql of same design. ($5,000). Archives, foreign. Recd: Feb. 11, 1985. Est. Value: $25000.	His Majesty Fahd Ibn Abd Al-Aziz Al Saud, King of Saudi Arabia, Saudi Arabia.	Do.
Do	Jewelry: A gold chain bracelet depicting Oriental characters. ($700); Archives, foreign. Flowers: A box of orchids. ($200). Residence; for official use/display. Recd; Oct. 8, 1985. Est. value: $900.	His Excellency Lee Kuan Yew, Prime Minister of the Republic of Singapore, Singapore.	Do.
Do	Household: A mirror in scalloped wood frame depicting handpainted polychromed native figures; 42" x 36" overall. Ranch; for official use/display. Recd: May 7, 1985. Est value; $650.	His Excellency and Mrs. Felipe Gonzalez Marquez, President of the Government of Spain, Spain.	Do.
Do	Household: A gold-washed oval trinket box with incised design on hinged lid. seal and facsimile signatures of King Juan Carlos and Queen Sofia on inside of lid; 2¾" long x 7'8" thick; in blue leather box with royal seal. ($110); Archives foreign. Clothing and accessories: Yellow clutch handbag, envelope style, in soft leather with four interior compartments lined in black leather, by "Loewe"; 11½"8½" x 2". ($315); Archives, foreign. Clothing and accessories: Scarf in green, yellow, and blue shades, overall geometric design spelling out "Loewe" twice; 34" x 35". ($100). Archives, foreign. Recd: May 6, 1985. Est. value: $525.	Their Majesties Juan Carlos I and Queen Sofia, the King and Queen of Spain, Spain.	Do.
Do	Household: Amphora Style glass vase, handblown oxblood and glazed by Maurice Pittet, Saint Prex Glassworks, 1932; 12¾" x 5" across mouth, ($175). Archives, foreign. Artwork: Color engraving of Lake Geneva, by Pietro Sarto, signed; matted and displayed in a paper-covered and leather-spined folio; image: 13" x 20½"; Folio 25" x 17½". ($200). Archives, foreign. Recd: Nov. 16, 1985. Est. value: $375.	The Honorable Gerard Dessauz Mayor of Saint Prex, Switzerland.	Do.
Do	Household: Tablecloth, white openworked style with geometric pattern overall and light blue undercover; 38" x 37"; and, four matching placemats and four plain white napkins; all cotton; machine-made in Switzerland ($150). Archives, foreign. Consumables: A box of chocolates ($30). Perishable. Recd: Nov. 16, 1985. Est. value: $180.	Mrs. Ursula Furgler, wife of the President of the Swiss Confederation, Switzerland.	Do.
Do	Jewelry: Rolex Oyster Wristwatch, date window, stainless steel band; in a blue leather presentation case with coat of arms on lid and lettered "Geneve November 1985;" and, a navy blue lizard "Rolex" wallet and a small "Rolex" handkerchief ($1,150). Archives, foreign.	Mr. Jacques Vernet, President, State Council of the Republic and Canton of Geneva, Switzerland.	Do.

Executive Office of the President, All Gifts Received From Foreign Officials Over Minimum Dollars—Continued

[Jan. 1 through Dec. 31, 1985]

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
	Flowers: Floral arrangement ($50). Residence; for official use/display. Recd: Nov. 19, 1985. Est. value: $1200.		
Do	Eight books: "Faberge;" "Royal Ceremonies For the Rattanakosin Bicentennial;" "The Chakri Monarchs And The That People, 1982;" "The Ramakian" (Mural paintings/galleries of the temple of the Emerald Buddha); one on the Thai Palace; "Busy Finger" (on the birthday of Her Royal Highness Princess Spinakarindra) No. 294 of 500 special copies numbered and signed by author, and a set of five booklets on Thai procelain ($172). Archives, foreign.	Her Majesty Sirikit, Queen of Thailand, Thailand.	Do.
	Clothing and accessories: Silk scarf, orchid design colored border stripes on blue background, lettered "Queen Sirikit"; 30" x 31" ($90) Archives. foreign.		
	Jewelry: Two 18 kt. gold with diamond beetle pins (made from real beetles); 1"and 2⅛" respectively ($3250). Archives, foreign. Recd: Mar. 11, 1985. Est. value: $3512.		
Do	Household: White Linen tablecloth with silver threaded designs, 7½ feet x 16 feet, 2 inches, and twenty matching napkins, 16½ inches square each; Handmade in Tunisia. Archives, foreign. Recd: June 20, 1985. Est. value: $300.	Madame Habib bourguiba, wife of the President of Tunisia, Tunisia.	Do.
Do	Household: Circular mirror with chain, silver medallion motif with scalloped edge; 9" diameter; in red Archives, foreign. Recd: Oct. 21, 1985. Est. value: $300.	Mrs. Turgut Ozal, wife of the Prime Minister of the Republic of Turkey, Turkey.	Do.
Do	Jewelry: Necklace of graduated beads and a bracelet; both of pressed amber ($100). Archives, foreign.	Mrs. Raissa Gorbachev, wife of the General Secretary of the Central Committee of the Communist Party of the Soviet Union, Union of Soviet Socialist Republics.	Do.
	Household: A blue and white porcelain tea set, decorated with floral motif and gold trim; tray 12" x 8½"; pot, 9¼" high; and two cups and saucers; all signed and made in the U.S.S.R.,1985; contained in a fitted vinyl-covered chest ($350). Archives, foreign. Recd: Nov. 19, 1985. Est. value: $450.		
Do	Book: "Paintings" (of the Tretyakov Gallery Russian Museum) by the Novasti Press Agency Publishing House. 1979 ($50). Archives, foreign.	The Honorable Vladmir Vasil'Yevich Shcherbitskiy, First Secretary of the Central Committee, of the Commuist Party of the Ukraine, Union of Soviet Socialist Republics.	Do.
	Household: Lacquered box depicting a hand-painted Troika scene on hinged lid, made in the Soviet Union, 1984; 7⅜" x 5¼ x 2¼" ($200). Archives, foreign. Recd: Mar. 7, 1985. Est. value: $250.		
Michael K. Deaver, Deputy Chief of Staff and Assistant to the President.	Artwork: Eskimo carving of a bird made out of Alberta Jade; 8" high, 12" long. GSA. Recd: Mar. 19, 1985. Est. value: $440.	The Right Honorable Brian Mulroney, P.C., M.P., Prine Minister of Canada.	Do.
Gahl Hodges, Social Secretary to First Lady.	Jewelry: A Women's watch with black leather strap and gold face with diamond chips for numbers in a black leather and suede portfolio-st;½ purse with double-folded strap closure made by Vacheron Constantin of Geneva. Switzerland, GSA.	His Majesty Al Hussein I, King of the Hashemite Kingdom of Jordan.	Do.
Do	Jewelry: An 18 kt. gold watch made by Longines in Switzerland, GSA. Recd: Feb. 21, 1985. Est. value: $2,500.	His Majesty Fahd Isn Abd Al-aziz Al Saud, King of Saudi Arabia.	Do.
Alton G. Keel, Jr., OMB Associate Director for National Security and International Affairs.	Household: Silver urn covered with etched designs; 9½" high. GSA. Recd: July 18, 1985. Est. value: $300.	The Government of Egypt	Do.
Robert C. McFarlane Assistant to the President for National Security Affairs.	Artwork: Eskimo carving of a penguin made out of Alberta Jade; 8" high, 6" long. GSA Recd: Mar. 19, 1985. Est. value: $275.	The Right Honorable Brian Mulroney, P.C., M.P., Prime Minister of Canada, Canada.	Do.
Do	Hosehold: Cloissone vase, beige backgorund with bird and floral motif, 15½" high. GSA. Recd: July 25, 1985. Est. value: $400.	His Excellency Xiannian Li, President of the People's Republic of China, People's Republic of China.	Do.
Do	Small Egyptian arm chair made of ivory; carved and incised with various Egyptian motifs; 9" high x 5" wide x " deep; encased in a blue velvet and satin case. GSA. Recd: Mar. 1, 1985. Est. value: $2000.	His Excellency Abu Ghazala, Minister of Defense, Egypt.	Do.
Do	Household: Oval silverplate tray with the emblem of Qatar etched in center and fruit relief as handles; 15" x 13"; made in Portugal. GSA. Recd: Dec. 20, 1985. Est. value: $250.	His Excellency Abdelkader Braik Al-Ameri Ambassador of the State of Qatar, Qatar.	Do.
Do	Photograph: A small autographed photograph of the donor and his wife in a silver frame; 7" x 9"; enclosed in a red velvet case. GSA. Recd: Apr. 4, 1985. Est. value: $225.	His Excellency Turget Ozal, Prime Minister of the Republic of Turkey, Turkey.	Do.
Do	Clothing and accessories: A dark brown dyed muskrat hat with ear flaps that tie together at top of hat; made in Russia. GSA. Recd: Jan. 22, 1985. Est. value: $350.	His excellency Anatoliy F. Dobrynin, Ambassador of the Union of Soviet Socialist Republics, Unin of Soviet Socialist Republics.	Do.
Do	Household: Box of assorted Russian items: Matching hand-painted wood spoon, bowl, and plate; set of wodden nesting dolls; one black hand-painted lacquered box with royal personage motif; one enamelled pin; one ceramic troika pendent; one ceramic candle holder; one metal tray with floral motif; and one ceramic chariot. GSA. Recd: Nov. 25, 1985. Est. value: $515.	His Excellency Mikhail Gorbachev, General Secretary of the Central Committee of the Communist Party of the Soviet Union, Union of Soviet Socialist Republics.	Do.
Do	Atwork: A laquered oval plaque with hand-painted scene of two carts with four riders and three horses each, against a rural setting; 16½" long x 11½" High; signed by "Pedockuno, 1981–Hoiallmob". GSA. Recd: Nov. 7, 1985. Est. value: $625.	His excellency Eduard Shevardnadze, Minister of Foreign Affairs of the Union of Soviet Socialist Republics, Union of Soviet Socialist Republics.	Do.
John M. Poindexter, Assistant to the President for National Security Affairs.	Black wooden plate with inlaid mother-of-pearl and ivory in geometric patterns in center and around edge, 12" in diameter; and a black lizard skin men's wallet and matching belt with brown and black metal buckle. GSA. Recd: Dec. 11, 1985. Est. value: $215.	Major General Moustafa Eid Moustafa, Defense, Military, Naval and Air Attache, Egypt.	Do.
Donald T. Regan, Chief of Staff and Assistant to the President.	Artwork: Eskimo carving of a bird made of Alberta jade, 12" high. Presidential staff; for official use/display. Recd: Mar. 19, 1985. Est. value: $320.	The Right Honorable Brian Mulroney, P.C., M.P., Prime Minister of Canada, Canada.	Do.
Do	Household: A pair of matching cloisonne vases, deep blue background with floral motif, 9½" high; and two wooden stands. Presidential staff; for official use/display. Recd: June 25, 1985. Est. value: $350.	His Excellency Wang Bingqian, State Councillor and Minister of Finance, People's Republic of China.	Do.
Do	Artwork: A reproduction of a native figure, 24 Kt. gold plated; mounted on a round wood base; 3" x 3" figure; base, 3" in diameter, 3" tall; with an attached brass plaque lettered "Augusto Ramirez Ocampo—Ministro de Relaciones Exteriores—de Columbia". Presidential staff; for official use/display. Recd: Apr. 9, 1985. Est. value: $500.	His Excellency Augusto Ramirez Ocampo, Minister of Foreign Relations of the Republic of Columbia, Colombia.	Do.

Executive Office of the President, All Gifts Received From Foreign Officials Over Minimum Dollars—Continued

[Jan. 1 through Dec. 31, 1985]

Name and title of recipient	Gift, date of acceptance, estimated value, and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Do	Household: Red leather covered desk diary for 1986 produced by the Ministry of Information for Qatar; also included is an oval silver-plated tray with the state emblem of Qatar etched in center and fruit relief as handles; 15" x 13"; made in Portugal. GSA. Recd: Dec. 24, 1985. Est. value: $325.	His Excellency and Mrs. Abdelkader Braik Al-Ameri, Ambassador of the State of Qatar, Qatar.	Do.
Do	Photograph: Color Photograph of three camels against a desert background; under glass with gold colored matting and black lacquer frame; 25" x 31". GSA. Recd: Apr. 25, 1985. Est. value: $215.	Mohammad Abalkhail, Minister of Finance and National Economy, Riyadh, Kingdom of Saudi Arabia, Saudi Arabia.	Do.
Do	Household: Box of assorted Russian items: Matching hand-painted spoon, bowl, and plate; set of wooden nesting dolls; one black hand-painted lacquered box with seated figure on top; one enamelled pin; one ceramic troika pendant; one ceramic candle holder; one metal tray with floral motif; and one small black metal cannon. GSA. Recd: Nov. 25, 1985. Est. value: $515.	His Excellency and Mrs. Mikhail Gorbachev, General Secretary of the Central Committee of the Communist Party of the Soviet Union, Union of Soviet Socialist Republics.	Do.
James Scott Rosebush, Deputy Assistant to the President, Chief of Staff for the First Lady.	Artwork: Inuit carving of a mother carrying a child on her back; made out of a black-green stone, stylized Eskimo garb. GSA. Recd: Mar. 20, 1985. Est. value: $350.	The Right Honorable Brian Mulroney, P.C., M.P., Prime Minister of Canada, Canada.	Do.
Do	Jewelry: Gold watch with leather band made by Jaeger-Lecoultre, Switzerland; also included is a set of white and yellow gold cuff links with the Palm and Saber Emblem of Saudi Arabia. GSA. Recd: Feb. 27, 1985. Est. value: $1950.	His Majesty Fahd Ibn Abd Al-Aziz Al Saud, King of Saudi Arabia, Saudi Arabia.	Do.
Gaston J. Sigur, Jr., Special Assistant to the President for National Security Affairs.	Household: Cloissone plate, white background with floral and butterfly motif, 10" in diameter; also included is a carved wooden stand. Presidential staff; for official use/display. Recd: July 25, 1985. Est. value: $225.	His Excellency Li Xiannian, President of the People's Republic of China, People's Republic of China.	Do.
Do	Household: A set of six, 80 percent silver dessert spoons with flat finish and a gold and green rosette attached to the handle of each; stamped on the back of each spoon are the words, "presented by Prime Minister Shinyong Lho, Republic of Korea." GSA. Recd: Oct. 31, 1985. Est. value: $300.	His Excellency Shinyong Lho, Prime Minister of the Republic of Korea, Republic of Korea.	Do.
Larry M. Speakes, Assistant to the President and Principal Deputy Press Secretary.	Jewelry: Omega watch with leather band and gold face; bearing the seal of King Hussein on face and on cover of maroon watch case. GSA. Recd: May 27, 1985. Est. value $350.	Mr. Fouad Ayoub, Press Secretary to the King, Jordan.	Do.
Leonard B. Zuza, Budget Examiner, International Affairs Division, NSIA, OMB.	Household: Silver plate covered with etched designs: 10¼" in diameter. GSA. Recd: July 8, 1985. Est. value: $250.	The Government of Egypt, Egypt	Do.

Office of the Vice President

Report of Tangible Gifts

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Vice President and Mrs. Bush	Val St. Lambert decantur and six glasses: Recd. June 6, 1985. Est. Value—$490.00. Accepted for Residence.	King Baudouin I and Queen Fabiola, Belgium.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Do	40 pounds of dates and wine: Recd. Feb. 4, 1985. Est. Value—$60.00. Dates destroyed; wine consumed.	President Chadli Bendjedid, Algeria	Do.
Do	Bracelet: Recd. Feb. 1985. Est. Value—$200.00. Morehouse School of Medicine.	do	Do.
Do	Necklace: Recd. Feb. 1985. Est. Value—$250.00. Morehouse School of Medicine.	do	Do.
Do	5 pounds of figs & case of Algerian wine: Recd. April 23, 1985. Est. Value—$10.00. Consumed.	President and Mrs. Chadli Bendjedid, Algeria.	Do.
Mrs. Bush, Wife of Vice President.	Fabric—Natural silk yarns and mivocal golden yarns, 3 yds. Recd. April 1985. Est. Value—$450.00. Morehouse School of Med.	Mrs. Chadli Bendjedid, Wife of President	Nonacceptance would have caused embarrassment to donor.
Vice President and Mrs. Bush	Silver treasure chest with gold handles and gold design on top filled with Fauchon chocolates: Recd. Nov. 1, 1985. Value: $250.00. Chest in storage pending transfer to GSA for disposition; chocolates consumed.	Lt. Sharif Zeid Bien-Shaker, Jordan	Do.
Vice President Bush	Firabaldi coin set: Recd. July 11, 1985. Value—$200.00. Accepted for West Wing Office.	Prime Minister Bettino Craxi, Italy	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Mrs. Bush (Wife of Vice President).	Porcelain cache-pot: Recd. July 11, 1985. Value—$400.00. Accepted for Residence.	Signora Anna Craxi (Wife of Prime Minister).	Nonacceptance would have caused embarrassment to donor.
Vice President Bush	Ivory piece shaped like vase with deer carved on it; vase with eagle carved on it; ivory and ebony wood stand: Recd. Oct. 1985. Value—$750.00. Storage pending transfer to GSA for disposition.	Prime Minister El Girouli Daf'alla, Sudan	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Do	13" Waterford Crystal vase with foot base: Recd. July 23, 1985: Value—$520.00. Broken and destroyed.	Stephen Daly, Irish Teachers Project, ITP House, 29 Terenure East, Dublin, Ireland.	Nonacceptance would have caused embarrassment to donor
Do	Box made of malachite and gold: Recd. Feb. 1985. Value—$4000.00. Accepted for Residence.	King Fahd, Saudi Arabia	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Do	Gold and Silver picture frame 8x10: Recd. Feb. 1985. Value—$1800.00. Accepted for Residence.	do	Do.
Do	Silver and gold chalice: Recd. Feb. 1985. Value—$1200.00. Accepted for Residence.	do	Do.
Do	Leather portfolio; silver letter opener; two ivory carved heads: Recd. March 1985. Value—$610.00. Portfolio and opener in storage pending transfer to GSA for disposition; Ivory heads at Morehouse School of Medicine.	Albert Farthal, National Museum of Niger, Niamey, Niger.	Nonacceptance would have caused embarrassment to donor.
Vice President and Mrs. Bush	Small bidri vase with black and silver decoration; reproduction of antique urn: Recd. June 12, 1985. value—$650.00. Accepted for Residence.	Prime Minister and Mrs. Rajiv Gandi, India.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Vice President Bush	Hand embroidered quilt "Folklore Borders": Recd. Feb. 15, 1985. Value—$800.00. Storage pending transfer to GSA for disposition.	A.Z.M. Obaidullah Khan, Bangladesh	Nonacceptance would have caused embarrassment to donor.

Office of the Vice President—Continued

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Vice President and Mrs. Bush	Fabric; picture of angora cat in wooden frame; chinese vase 13" high: Recd. July 24, 1985. Value—$765.00. Fabric in storage pending transfer to GSA for disposition; Picture and vase accepted for Residence.	President and Mrs. Li Xannian, PRC	Nonacceptance would have caused embarrassment to donor and U.S. Government
Vice President Bush	Ebony statue, 16" x 9" of figures intertwined on bark: Recd. Sept. 20, 1985. Value—$1200.00. Morehouse School of Medicine.	President Samora Moises Machel, Mozambique.	Do.
Do	Camel Saddle; 2 daggers; handbags (6); camel blanket: Recd. March 1985. Value—$320.00. Saddle and Daggers to Morehouse School of Medicine; handbags fell apart and were destroyed; Blanket to Morehouse School of Medicine.	Amadou Seyni Maiga, Niger	Nonacceptance would have caused embarrassment to donor.
Do	Medallion of the Elysee Palace: Recd. July 11, 1985. Value—Rare	President Francois Mitterrand, France	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Do	Small jade incense burner: Recd. March 15, 1985. Value $300.00. Accepted for Residence.	Sir Yue-Kong Pao, World Shipping Center, 7 Canton Road.	Nonacceptance would have caused embarrassment to donor.
Mrs. Bush (Wife of Vice President).	Silver cigarette box with gold medallion applied on lid: Recd. June 24, 1985. Value—$175.00. Accepted for Residence.	President Sandro Pertini, Italy	Do.
Vice President Bush	Cherry Blossom Schroll 83" x 80": Recd. Oct. 15, 1985. Value—$350.00. Storage pending transfer to GSA for disposition.	Government of the PRC	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Do	Embroidered batiste table-cloth with 8 napkins: Recd. Oct. 15, 1985. Value—$350.00. Accepted for Residence.	do	Do.
Do	Two wood carvings and framed reproduction of print from Palau museum: Recd. Oct. 12, 1985. value—$170.00. carvings in storage pending transfer to GSA for disposition; print accepted for residence.	President Lazarus Salii, Western Carolina Islands.	Do.
Vice President and Mrs. Bush	Straw mat; red cotton fabric; 4' sword; silver bracelet: Recd. March 1985. Value—$725.00. Mat and bracelet to Morehouse School of Medicine; sword in storage pending transfer to GSA for disposition; fabric kept.	Hamid Ali Shash, Sudan	Nonacceptance would have caused embarrassment to donor.
Vice President Bush	Original painting from Thailand: Recd. April 9, 1985. Value—$740.00. Pending disposition.	The Surawongse Gallery, Bangkok, Thailand.	Do.
Vice President and Mrs. Bush	Small shell necklace; small shell bracelet; ifil wood carving of oxen; solid silver belt buckle; ifil wood box: Recd: Oct. 12, 1985. Value—$260.00. Wood Carving accepted for Residence; others are pending disposition.	Governor and Mrs. Pedro Tenorio, Northern Mariana Islands	Nonacceptance would have caused embarrassment to donor and U.S. Government
Do	Bracelet and Necklace made of brass and tin; two handwoven rugs; wooden spirit mask; 1 bou bou dresses; carved wooden door; alligator leather briefcase: Recd. March 1985. Value—$500.00. Rugs, dresses, mask, door to Morehouse School of Medicine; jewelry kept; briefcase in storage pending transfer to GSA for disposition.	President and Mrs. Traore, Mali	Do.
Mrs. Bush	Gold pendant; wooden mask; gold bracelet: Recd. June 11, 1985. Value—$745.00. Morehouse School of Medicine.	Mrs. Moussa Traore, Mali	Nonacceptance would have caused embarrassment to donor.

U.S. Senate

Report of Tangible Gifts

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Max Baucus, U.S. Senator	Cuff links, Recd Dec. 5, 1985. Est. Value—$380.00. Deposited with Secretary of the Senate for transmittal to the Commission on Arts and Antiquities of the U.S. Senate.	Mr. Ta-Hai-Li, Minister of Economic Affairs, Republic of China.	Refusal would likely cause offense or embarrassment.
Diana D. Cohen, Wife of U.S. Senator William Cohen.	Coral Necklace; Recd August 1985. Est. Value—$250-$300. Deposited with Secretary of the Senate for transmittal to the Commission on Arts and Antiquities of the U.S. Senate.	Mrs. Yu Kuo Hwa, Taipei, Taiwan (Premier's Wife).	Do.
Bob Dole, U.S. Senator	Chinese silk rug, 73" x 111", made in manner and design of 16th century Safavidi Dynasty of Persia; Recd Sept. 26, 1985. Est. Value—$10,000. Requested and received approval from the Select Committee on Ethics on Oct. 21, 1985, for official use of item during tenure in the Senate.	Zhang Shu Guang, Governor of Hebei Province, Shijiazhuang, People's Republic of China.	Do.
Do	Herend china coffee set, coffee pot, covered sugar bowl, and creamer, handpainted bone china with a magenta floral design with gold accents; Recd June 13, 1985. Est. Value—$499.00. Requested and received approval from the Select Committee on Oct. 1, 1985, for official use of item during tenure in the Senate..	Dr. Laszlo Kapolyi, Hungarian Minister of Industry.	Do.
Do	Cufflink set, silver and amethyst with cabochon cut; Recd Oct. 28, 1985. Est. Value—$200.00. Deposited with Secretary of the Senate for transmittal to the Commission on Arts and Antiquities of the U.S. Senate.	Prime Minister Shinyong Lho, Republic of Korea.	Do.
Elizabeth Dole, Wife of U.S. Senator Bob Dole.	Coral 18K gold ring; Recd Oct. 28, 1985. Est. Value—$350.00. Deposited with Secretary of the Senate for transmittal to the Commission on Arts and Antiquities of the U.S. Senate.	Minister of Foreign Affairs and Mrs. Fusung Chu, Republic of China.	Do.
Do	Coral necklace; Recd August 1985. Est. Value—$250-$300. Deposited with Secretary of the Senate for transmittal to the Commission on Arts and Antiquities of the U.S. Senate.	Mrs. Yu Kuo Hwa, Taipei, Taiwan (Premier's Wife).	Do.
Nancy Domenici, Wife of U.S. Senator Pete Domenici.	Coral necklace; Recd August 1985. Est. Value—$250-$300. Deposited with Secretary of the Senate for transmittal to the Commission on Arts and Antiquities of the U.S. Senate.	do	Do.
Daniel J. Evans, U.S. Senator	Coral necklace; Recd August 1985. Est. Value—$250-$300. Deposited with Secretary of the Senate for transmittal to the Commission on Arts and Antiquities of the U.S. Senate.	do	Do.
John Kerry, U.S. Senator	Mother of Pearl Desk Set; Recd April 1985. Est. Value—in excess of $200. Deposited with Secretary of the Senate for transmittal to the Commission on Arts and Antiquities of the U.S. Senate.	President and Mrs. Marcos, Philippines	Do.
Do	Jewelry set including diamond and baroque pearl and gold earrings and matching ring and matching cufflink set; Recd April 1985. Est. Value—$375-$575. Deposited with Secretary of the Senate for transmittal to the Commission on Arts and Antiquities of the U.S. Senate.	do	Do.
Louise McClure, Wife of U.S. Senator James McClure.	Coral necklace; Recd August 1985. Est. Value—$250-$300. Deposited with Secretary of the Senate for transmittal to the Commission on Arts and Antiquities of the U.S. Senate.	Mrs. Yu Kuo-Hwa, Taipei, Taiwan (Premier's Wife).	Do.

U.S. Senate—Continued

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Mrs. Moynihan, Wife of U.S. Senator Daniel P. Moynihan.	Coral necklace; Recd August 1985. Est. Value—$250-$300. Deposited with Secretary of the Senate for transmittal to the Commission on Arts and Antiquities of the U.S. Senate.	....do	Do.
Sam Nunn, U.S. Senator	Jewelry set, 3-piece, gold and smoke quartz; Recd Sept. 26, 1985. Est. Value—$240.00. Deposited with Secretary of the Senate for transmittal to the Commission on Arts and Antiquities of the U.S. Senate.	Kim Lyun Joon, President of Han Yang University, Seoul, South Korea.	Do.
Gayle Wilson, Wife of U.S. Senator Pete Wilson.	Coral necklace; Recd August 1985. Est. Value—$250-$300. Deposited with Secretary of the Senate for transmittal to the Commission on Arts and Antiquities of the U.S. Senate.	Mrs. Yu Kuo-Hwa, Taipei, Taiwan (Premier's Wife).	Do.
Jesse Helms, U.S. Senator	Aug. 5-12, 1985; Recd travel within Israel	Government of Israel	Do.
James P. Lucier, Chief Legislative Assistant to Senator Helms.	....do	....do	Do.

U.S. House of Representatives

Report of Tangible Gifts

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Sam Gibbons, Member of Congress	Choker length string of pearls. Recd August 8, 1985. Est. value—$450. Delivered to Clerk of House for disposition October 17, 1985	Prime Minister Nakasone, Japan	Nonacceptance would have caused embarrassment to donor
Jack Kemp, Member of Congress	Items of jewelry (earrings, rings, cufflinks, studs, broach, and necklaces). Recd September, 1985. Est. Value—$10,420. Delivered to Clerk of House for disposition November 7, 1985	President and Mrs. Ferdinand Marcos, Republic of the Philippines	Do.
Do	Three vases, tablecloth set, album of painting reproductions. Recd November, 1985. Est. Value—$345. Delivered to Clerk of House for disposition December 10, 1985	Minister of Foreign Affairs, Republic of China.	Do.
Thomas P. O'Neill, Jr., Member of Congress	Ceramic horse. Recd July 23, 1985. Est. Value—$500. Transferred to Speaker's Dining Room for Official Use	President, People's Republic of China	Do.
Bill Richardson, Member of Congress	Set of five books. Recd January, 1985. Est. Value—$207.50 Delivered to Clerk of House for disposition December 12, 1985	Embassy of Saudi Arabia	Do.
Do	Desk set, mirror, dress, flower arrangement. Recd April 14, 1985. Est. Value—$245. Delivered to Clerk of House for disposition December 12, 1985	Republic of the Philippines	Do.
Ike Skelton, Member of Congress	Watch, 2 vases. Recd September 6, 1985. Est. Value—$300. Delivered to Clerk of House for disposition December 30, 1985	Republic of China, Taiwan	Do.

U.S. House of Representatives

Report of Travel or Expenses of Travel

Name and title of recipient	Brief description of travel or travel expenses occurring entirely outside United States	Identity of foreign donor and government	Circumstances justifying acceptance
Kenneth B. Kramer, Member of Congress.	Air transportation to Windhoek—UNITA headquarters—Jonannesburg	Republic of South Africa	Visit with UNITA leadership as part of fact finding trip.

Department of the Air Force

Report of Tangible Gifts

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Col. Robert E. Cunniff, Comdr. AFOSI District 42, Clark AB PI.	Rattan furniture (2 small glass, top end tables, 1 glass top coffee table, 2 easy chairs and a matching love seat). Rcvd. October 17, 1985. Estimated value—$430.00. Approved for official use in break room at AFOSI District Headquarters.	Brig. Gen. Pedrito de Guzman, Armed Forces of the Philippines.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Mrs. Gabriel, wife of Gen. Charles A. Gabriel, USAF, Chief of Staff.	Silk tablecloth (4'4" x 4'4", flower print in rose, beige and gold colors, gold fringe all around). Rcvd. September 1985. Estimated value—$600.00. Stored at Office of Chief of Staff, USAF (reported to GSA to transfer item to GSA vault).	Brig. Gen. Mohammed Kabbaj, Inspector, Moroccan AF.	Do.
Do	Two silk pillowcases (17" x 17" rust and gold colors and 18" x 16", green and gold colors). Rcvd. September 1985. Estimated value—$300.00. Stored at Office of Chief of Staff, USAF (reported to GSA to transfer items to GSA vault).	....do	Do
Do	Silk tablecloth (3'2" x 3'2", flower print in pink, rust and green colors, rust fringe all around) Rcvd. October 9, 1985. Estimated value—$200.00. Stored at Office of Chief of Staff, USAF (reported to GSA to transfer item to GSA vault).	Gen. Wang Hai, Comdr., Chinese AF	Do.
Gen. Charles A. Gabriel, USAF Chief of Staff.	F-4 oil painting (canvas 24" x 18", frame 26" x 22") Rcvd. October 15, 1985. Estimated value—$185.00. Stored at Office of Chief of Staff, USAF (reported to GSA to transfer item to GSA vault).	Group Captain Prapin Thongpoonsak, Comdr., Wing 23, Royal Thai AF.	Do.
Maj. Gen. Charles A Horner, Comdr., USAF, Air Defense Weapons Center, Tyndall AFB, FL.	Sterling silver plate, emblazoned with the crest of the Combat Commanders School, Pakistani AF, with a red velvet case with gold trim (8" in diameter). Rcvd. April 22, 1985. Estimated value—$175.00. Approved for permanent display at HQ USAF Defense Weapons Center at Tyndall AFB FL.	Group Captain M. Abbas Khattak, Combat Commanders School, Pakistan AF.	Do.
Col. James J. LeCleir, Comdr., 438 Military Airlift Wing, McGuire AFB, NJ.	Two 2.5' x 4.5' red, blue, and white Moroccan carpets Rcvd. January 29, 1985. Estimated value—between $200.00 and $400.00. Approved for official use at the Distinguished Visitors Quarters, McGuire AFB, NJ.	Queen of Morocco, Kingdom of Morocco	Do.

Department of the Air Force—Continued

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Capt. Cynthia M. Mackey, Protocol Officer, 438 Military Airlift Wing, McGuire AFB, NJ.	Two 2.5' x 4.5' off white with black and red designs Moroccan carpets Rcvd. January 29, 1985. Estimated value—between $200.00 and $400.00. Approved for official use at the Distinguished Visitors Quarters, McGuire AFB, NJ.	do	Do.
Honorable Verne Orr, Secretary of the Air Force.	Far Eastern Silver Filigree Ship Model (approx 15" long, 9½" high, weighs 7 oz.). Rcvd. June 1985. Estimated value—$350.00. Stored at the Office of the Secretary of the Air Force (reported to GSA to transfer item to GSA vault).	Secretary General Yogi Supardi, Jakarta, Indonesia.	Do.
Do.	Silver cigarette box (stamped "Sterling Thailand"). Rcvd. June 1985. Estimated value—$950.00. Stored at the Office of the Secretary of the Air Force (reported to GSA to transfer item to GSA vault).	Air Chief Marshall Prapan Dhupatemiya, Commander-in-Chief, Royal Thai AF.	Do.
Maj. Karl J. Rodenhauser, Executive Officer 438 Military Airlift Wing, McGuire AFB, NJ.	Two 2.5' x 4.5' red, blue, and white Moroccan carpets. Rcvd. January 29, 1985. Estimated value—between $200.00 and $400.00. Approved for display in the Distinguished Visitors Quarters, McGuire AFB, NJ.	Queen of Morocco, Kingdom of Morocco	Do.
Maj. Gen. Robert D. Springer, Comdr., 21st AF.	One 5.5' x 7.5' royal blue and white Moroccan carpet. Rcvd. January 29, 1985. Estimated value—between $300.00 and $1,500.00. Approved for official use at the Distinguished Visitors Quarters, McGuire AFB, NJ.	do	Do.

Department of the Army

Report of Tangible Gifts

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identify of foreign donor and government	Circumstances justifying acceptance
SP4 Eric Baez, Patient Care Specialist, Walter Reed AMC, Washington.	Longines men gold watch. Recd November 1985. Est. Value—$200. US Army Military Personnel Center, Alexandria, VA.	Prince Mohamad Abdulaziz, Saudi Arabia	To preclude potential embarrassment to the Government and donor.
SP4 Stefan E. Biberfeld, Patient Care Specialist, Walter Reed AMC, Washington.	Longines men gold watch. Recd November 1985. Est. Value—$200. US Army Military Personnel Center, Alexandria, VA.	do	Do.
1LT Gail Booker, Staff Nurse, Walter Reed AMC, Washington.	Geneve lady gold watch. Recd November 1985. Est. Value—$200. US Army Military Personnel Center, Alexandria, VA.	do	Do.
LTC Bruce W. Booth, Staff Surgeon, Walter Reed AMC, Washington.	Rolex gold watch. Recd November 1985. Est. Value—$3,000. Gift returned by LTC Booth to the Prince.	do	Do.
CPT Young B. Chung, Staff Nurse, Walter Reed AMC, Washington.	Geneve lady gold watch. Recd November 1985. Est. Value—$200. US Army Military Personnel Center, Alexandria, VA.	do	Do.
SP4 Ann C. Drazba, Patient Care Specialist, Walter Reed AMC, Washington.	Longines lady gold watch. Recd November 1985. Est. Value—$200. US Army Military Personnel Center, Alexandria, VA.	do	Do.
LTC Charles L. Dandy, Anesthesiologist, Walter Reed AMC, Washington.	Riviera men gold watch. Recd November 1985. Est. Value—$2,000. US Army Military Personnel Center, Alexandria, VA.	do	Do.
MAJ Steven F. Gouge, Nephrology Consultant, Walter Reed AMC, Washington.	Rolex men gold watch. Recd November 1985. Est. Value—$2,000. US Army Military Personnel Center, Alexandria, VA.	do	Do.
CPT Stephen D. Harris, Anesthesiologist, Walter Reed AMC, Washington.	Rolex men gold watch. Recd November 1985. Est. Value—$2,000. US Army Military Personnel Center, Alexandria, VA.	do	Do.
1LT Peggy Iverson, Staff Nurse, Walter Reed AMC, Washington.	Geneve lady gold watch. Recd November 1985. Est. Value—$200. US Army Military Personnel Center, Alexandria, VA.	do	Do.
Honorable John O. Marsh, Jr., Secretary of the Army, Pentagon, Washington.	Silkscreen. Recd November 1985. Est. Value—$228. General Officers' Mess #1, Pentagon.	The Honorable Yoon Sung Min, Minister of National Defense, Republic of Koree	Do.
SFC Milton W. Mercer, Wardmaster, Walter Reed AMC, Washington.	Longines men gold watch. Recd November 1985. Est. Value—$200. US Army Military Personnel Center, Alexandria, VA.	Prince Mohamad Abudulaziz, Saudi Arabia.	Do.
CPT Victor L. Modesto, General Surgeon, Walter Reed AMC, Washington.	Rolex men gold watch. Recd November 1985. Est. Value—$3,000. US Army Military Personnel Center, Alexandria, VA.	do	Do.
MG Lewis A. Mologne, Commander, Walter Reed AMC, Washington.	Rolex men gold watch. Recd November 1985. Est. Value—$8,000. US Army Military Personnel Center, Alexandria, VA.	do	Do.
1LT John Nulty, Staff Nurse, Walter Reed AMC, Washington.	Omega men watch. Recd November 1985. Est. Value—$200. US Army Military Personnel Center, Alexandria, VA.	do	Do.
COL William J. Oetgen, Asst. Chief, Cardiology, Walter Reed AMC, Washington.	Rolex men gold watch. Recd November 1985. Est. Value—$1125. US Army Military Personnel Center, Alexandria, VA.	do	Do.
GEN William R. Richardson, Commander, TRADOC, Fort Monroe, VA.	9mm Argentine Army Pistol. Recd November 1985. Est. Value—$249. US Army Military Personnel Center, Alexandria, VA.	BG Ernesto A. Alais, Argentina	Do.
LTC Guillermo Quispe, General Surgeon, Walter Reed AMC, Washington.	Rolex men gold watch. Recd November 1985. Est. Value—$10,000. US Army Military Personnel Center, Alexandria, VA.	Prince Mohamad Abudulaziz, Saudi Arabia.	Do.
SP4 Lori A. Renner, Patient Care Specialist, Walter Reed AMC, Washington.	Longines lady gold watch. Recd November 1985. Est. Value—$200. US Army Military Personnel Center, Alexandria, VA.	do	Do.
CPT Francisca M. Slone, Head Nurse, Walter Reed AMC, Washington.	Geneve lady gold watch. Recd November 1985. Est. Value—$200. US Army Military Personnel Center, Alexandria, VA.	do	Do.
SP4 Juanita L. Stephens, Records Technician, Walter Reed AMC, Washington.	Longines lady gold watch. Recd November 1985. Est. Value—$200. US Army Military Personnel Center, Alexandria, VA.	do	Do.

Department of the Army—Continued

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identify of foreign donor and government	Circumstances justifying acceptance
SP4 Kathie Tiller, Patient Care Specialist, Walter Reed AMC, Washington.	Longines lady gold watch. Recd November 1985. Est. Value—$200. US Army Military Personnel Center, Alexandria, VA.	....do	Do.
Mr. Fouad K. Aide, Allied Liaison Officer, US Army Military Police, School, Ft McClellan, AL.	Gold watch and 3 diamond rings. Recd November 1985. Est. Value—$1,722. Mr Fouad K. Aide, Ft McClellan, AL.	MAJ Daham Al-Otaibi, Saudi Arabia	Do.
MG Henry Doctor, Commander, 2nd Infantry Division, Republic of Korea.	Sam Jung Do. Saber, scabbard and box, container. Recd November 1983. Est. Value—$1,000. HQ, 2nd Infantry Division Museum.	President, Republic of Korea	Do.
COL Richard D. Hooker, DCS, USMTM, Saudi Arabia.	Rolex men gold watch. Recd November 1985. Est. Value—$600. US Army Military Personnel Center, Alexandria, VA.	Vice Chief of Staff, Saudi Arabian Armed Forces.	Do.
CPT William S. Knoebel, SGS, USAMILPERCEN, Alexandria, VA.	Gold cuff link set. Recd November 1985. Est. Value—$300. US Army Military Personnel Center, Alexandria, VA.	Chief of Staff, Jordanian Army	Do.
COL John R. Piatak, Post Commander, Camp King, Federal Republic of Germany.	Gold pen/pencil set. Recd November 1985. Est. Value—$276. US Army Military Personnel Center, Alexandria, VA.	Mr Herr Bechtel, Federal Republic of Germany.	Do.

Central Intelligence Agency

Report of Tangible Gifts

Name and title of recipient	Gift, date of acceptance, estimated, value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Willam J. Casey, Director, CIA	Lalique molded crystal vase. Inscribed on bottom "Lalique France." H: 6. Recd November 1985. Est Value—$200.00. To be reported to GSA for disposition.	Public Law 95-105 (A(F)(4)	Nonacceptance would have caused embarrassment to donor.
Do	(a) French revolver. Maker, d'Armes St. Etienne, 1892 model. Serial number F86612. In fitted case. (b) 'Sevres' bottle vase. Cobalt ground with gilt flowers. H: 5¾. Recd December 1985. Est Value—$425.00. To be reported to GSA for disposition.	....do	Do.
Do	Two African bronze sculptures. (a) Brown patina, with elaborate headdress and holding two objects, H: 16; and (b) Bust, gold patina, H: 15½. Recd December 1985. Est Value—$300.00. To be reported to GSA for disposition.	....do	Do.
Do	English silver and marble hinged cigarette box. The medallion top with map of Egypt, seal, compass and sailing vessel. Maker Asprey, London, Contemporary. Recd February 1985. Est. Value—$1,500.00. Retained for official display.	....do	Do.
Do	Chinese silver miniature of turtleboat. Replica of the earliest ironclad war ship. After design by Adm. Lee Sun Shin. Within a dust proof case. L: of model 6. Recd October 1985. Est. Value—$175.00. To be reported to GSA for disposition.	....do	Do.
Do	Middle Eastern sword. Bone pommel with gilt and silvered metal sheath. Probably Thai. Within a glazed and wood trim case. L: of sword 23. Recd May 1985. Est. Value—$175.00. To be reported to GSA for disposition.	....do	Do.
Do	Chinese green hardstone necklace with pi pendant and good luck roundel medallion. 14 karat yellow gold mounts. Recd 1985. Est. Value—$250.00. To be reported to GSA for disposition.	....do	Do.
Do	(a) Chinese onion jade pi brooch. 10 Karat yellow gold mount. (b) Chinese hardstone ensemble. Consisting of a necklace, bracelet, pair pendant earrings, and a finger ring. Each with yellow gold mount. 5 pieces. (c) Chinese carved wood orb-form bowl. With relief calligraphy body. H: 13½. Recd May 1985. Est. Value—$700.00. To be reported to GSA for disposition.	....do	Do.
Do	(a) Fiberglass replica plaque. A Model of a Scene Representing Two Men Carrying Corn from Tomb of Noble. Plaque size 14 x 23. (b) Emerald, ruby and diamond ring. Unmarked yellow gold mount with a cartouche design top centering a round faceted emerald, round faceted ruby and twenty-six rose diamonds. Recd April 1985. Est. Value—$275.00. To be reported to GSA for disposition.	....do	Do.
John N. McMahon, Deputy Director, CIA.	Egyptian silver gilt highlighted sultan's dagger. With country seal and Farsi medallion. Encased Recd October 1985. Est. Value—$175.00. To be reported to GSA for disposition.	....do	Do.
Do	Indo-Keshan rug. 8.1 x 5. Ivory ground with trellising floral field centering a pulled lobed medallion on blue ground, beige spandrels, palmette and trellising vine guard border on blue ground. Recd October 1985. Est Value—$800.00. Retained for official display.	....do	
Do	Middle Eastern Bokhara-type rug. 5.8 x 4.3. Three rows of six octagon medallons on beige ground. five guard borders. Recd October 1985. Est Value—$175.00. Retained for official display.	....do	Do.
Agency employee	(a) Diamond, ruby and emerald "safety pin" brooch. The unmarked yellow gold safety pin mount set with sixty-two round diamonds weighing approximately 4 carets, seventeen square cut rubies, and four emeralds. (b) Diamond pendant-brooch. Unmarked wreath and ribbon mount set with thirty-two round diamonds weighing approximately .75 carats. Recd June 1985. Est Value—$1,200.00. To be reported to GSA for disposition.	....do	Do.
Do	(a) Three French color prints. Parisian Street Scenes. Each entitled; after paintings by Arno. (b) Oriental silver card tray with gilt seal medallion. Together with a folding wood stand. D: of tray 6¾. (c) Thai gilt metal and niello silver presentation plate. D: 11. Together with folding wood stand. (d) Pair Chinese cloisonne vases. Each baluster body with green ground with flowering bush and bird. H: 7½. (e) Chinese silver and enameled plaque. With gilt metal and enameled seal above a presentation, easel-back frame. Recd Unknown. Est Value—$280.00. To be reported to GSA for disposition.	....do	Do.
Do	German lugar. Model 1917. With clip magazine. Recd 1984. Est Value—$1,100.00. To be reported to GSA for disposition.	....do	Do.

Central Intelligence Agency—Continued

Name and title of recipient	Gift, date of acceptance, estimated, value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Do	Man's Audemars Pignet wrist watch. 18 Karat yellow gold case with black reptile band. Case number B72321. Recd June 1985. Est Value—$400.00. Retained for official use.	do	Do.
Do	African carved ivory figure of standing male. Wearing elaborate headdress. On an oval wood base. H: overall 19¼. Recd June 1985. Est Value—$350.00. To be reported to GSA for disposition.	do	Do.
Do	Filigree gold ensemble. Probably African. Consisting of a necklace, and a flexible bracelet. Wt. approximately 5 oz. Recd June 1985. Est. Value—$1,200.00. To be reported to GSA for disposition.	do	Do.
Do	Man's Cartier watch. Yellow gold filled case and attachment, quartz movement. Serial Number 653472. Recd July 1985. Est Value—$275.00. To be reported to GSA for disposition.	do	Do.
Do	Pair pearl and sapphire earrings. 14 Karat yellow gold mounts, each set with a cultured pearl, three marquise blue sapphires and a round faceted blue sapphire. Pierced type mounts. Recd July 1985. Est. Value—$175.00. To be reported to GSA for disposition.	do	Do.
Do	Diamond and emerald ensemble. Consisting of a pendant necklace with chain, and a pair of earrings. The pendant set with pear shaped emerald, two square cut emeralds, two emerald cut diamonds and fourteen round diamonds. The pair of pierced earrings each set with twelve round diamonds and two square cut emeralds. Total wt. of diamonds 1 carat; total wt. of emeralds approximately 1 carat. Each in 18 karat yellow gold mount. 3 pieces. Recd May 1983. Est Value—$800.00. To be reported to GSA for disposition.	do	Do.
Do	Middle Eastern dagger. Repousse silver mounts and horn pommel. (b) Two English vermeil silver perfume bottle housings. Each in the Persian manner. (c) Middle Eastern repousse silver table garniture. Consisting of a rectangular two-handle tray with vermeil radiating ground, trifid censer, spice box, and a round covered box. Total wt. 75 oz. Recd March 1985. Est Value—$675.00. To be reported to GSA for disposition.	do	Do.
Do	Diamond initial tie tac "T." The unmarked yellow gold initial mount set with eighteen round diamonds weighing approximately .55 carats. Recd June 1985. Est Value—$350.00. To be reported to GSA for disposition.	do	Do.
Do	Man's diamond ring. Unmarked yellow gold mount with punchwork top centering a round brilliant cut diamond weighing approximately .35 carats. Recd June 1985. Est Value—$750.00. To be reported to GSA for disposition.	do	Do.
Do	Man's Cartier date watch. Stainless steel and gold filled case and band attachment, with blue sapphire crown. Serial number 296184373. Recd December 1984. Est Value—$175.00. To be reported to GSA for disposition.	do	Do.
Do	Epson model ET-12G battery operated AM/FM radio-color television. Recd 1985. Est Value—$175.00. To be reported to GSA for disposition.	do	Do.

Department of Commerce

Report of Tangible Gifts

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Lionel Olmer, Under Secretary for International Trade.	Silver brooch with eight pearls. Recd Jan. 2, 1985. Est. Value—$200. Reported to GSA and stored in Operations Support Services pending disposition by GSA.	Mr. Taiji Kohara, President, International Public Relations, Japan.	Nonacceptance would have caused embarrassment to donor.

U.S. Court

Report of Tangible Gifts

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
United States Court of Appeals for the District of Columbia Circuit (gift given to court as opposed to any individual judge in that court).	Hand embroidered linen tablecloth with matching napkins. Received May 8, 1985. Est. Value—$200. Designated by the Director for official use in the United States Courthouse, Washington, DC.	President, Vice President, and members of the Supreme People's Court of the People's Republic of China.	Nonacceptance would have caused offense to and embarrassment of donor.
United States Court of Appeals for the Ninth Circuit (gift given to court as opposed to any individual judge on that court).	Late 19th/early 20th century copy of Ming Dynasty dish. Received May 15, 1985. Est. Value—$250.	do	Do.

Department of Defense

Report of Tangible Gifts

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Richard L. Armitage, Assistant Secretary of Defense (International Security Affairs)	Men's 18K gold Piaget watch w/small diamonds surrounding the face, and a gold band; matching cuff links, with small diamonds around the edges; and ladies' double strand cultured pearl necklace, with gold clasp. Recd Nov. 18, 1985. Est. Value—watch—$10,000, cuff links—$2,000, necklace—$400, Total—$12,400. Stored in office of the Deputy Assistant Secretary (Admin) pending transfer to GSA for disposition.	The Amir of Bahrain	Nonacceptance would have caused embarrassment to donor.

Department of Defense—Continued

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Do	Onyx-marble chess set w/board and pieces. Recd Dec. 12, 1985. Est. Value—$175. Stored in Space Management and Services pending transfer to GSA for disposition.	Admiral Tarig K. Khan, Chief of Naval Operations, Pakistan.	Do.
Col. Burton Bacheller, USAF, Weapons Systems Division, Plans Directorate, Defense Security Assistance Agency.	Breitling Geneve aviator's watch, Navitimer, Swiss made, stainless steel, #81470-11108. Recd July 23, 1985. Est. Value—$400. Stored in office of the Deputy Assistant Secretary (Admin) pending transfer to GSA for disposition.	Col. Hamid Abdelli, Commander, Armed Forces, Democratic and Popular, Republic of Algeria.	Do.
Lt. Col. James Carney, USAF, Office of the Assistant Secretary of Defense (International Security Affairs), Near Eastern/South Asian Affairs.	Breitling Geneve aviator's watch, Navitimer, Swiss made, stainless steel, #81470-11765. Recd July 1985. Est. Value—$400. Stored in office of the Deputy Assistant Secretary (Admin) pending transfer to GSA for disposition.	do	Do.
ADM William J. Crowe, Jr., Chairman, Joint Chiefs of Staff.	Graphic artwork by Senegalese artist (woman and child). Recd Nov. 21, 1985. Est. Value—$250. Approved for official display in office of donee.	Gen. Joseph Tavares Da Souza, Chod, Senegal.	Do.
Lt. Gen. Philip C. Gast, USAF, Director, Defense Security Assistance Agency.	18K gold cartouche cuff links. Recd Jan. 11, 1985. Est. Value—$400. Delivered to GSA for disposition Feb. 27, 1985.	Lt. Gen. Ibrahim E. Orabi, Chief of Staff, Egyptian Armed Forces.	Do.
Do	Ivory carving of Egyptian barge. Recd Feb. 27, 1985. Est. Value—$400. Approved for official display in government quarters at Bolling Air Force Base.	Field Marshal Abu-Ghazala, Minister of Defense, Arab Republic of Egypt.	Do.
Do	Egyptian rug, 30" x 58½". Recd Mar. 31, 1985. Est. Value—$200. Approved for official display in government quarters at Bolling Air Force Base.	Lt. Gen. Ibrahim E. Orabi, Chief of Staff, Egyptian Armed Forces.	Do.
Do	Onyx decorator plate, inlaid w/mother-of-pearl. Recd Apr. 22, 1985. Est. Value—$500. Approved for official display in office of donee.	Maj. Gen. M. Rahim Khan (Ret.), Secretary General, Ministry of Defense, Government of Pakistan.	Do.
Do	18K gold cartouche cuff links; 18K gold cartouche necklace. Recd June 19, 1985. Est. Value—cuff links—$350, necklace—$125, Total—$475. Stored in office of the Deputy Assistant Secretary (Admin) pending transfer to GSA for disposition.	Dr. Gamal Said, Director of Military Production, Arab Republic of Egypt.	Do.
Do	Ivory carving, 13" tall. Recd Aug. 27, 1985. Est. Value—$500. Approved for official display in office of donee.	Maj. Gen. Ali, Defense Attache, Embassy of Somalia.	Do.
Do	Baume & Mercier Riviera watch, stainless steel and gold, w/Roman numerals; matching cuff links. Recd Nov. 18, 1985. Est. Value—watch—$2500, cuff links—$200, Total—$2700. Stored in office of the Deputy Assistant Secretary (Admin) pending transfer to GSA for disposition.	The Amir of Bahrain	Do.
Dr. Fred C. Ikle, Under Secretary of Defense for Policy.	Set of four wooden tables (nested), w/inlaid gold design. Recd May 15, 1985. Est. Value—$200. Approved for offical display in office of donee.	Gen. Zia-Ul-Haq, President of Pakistan	Gift presented to Dr. Ikle during his official visit to Pakistan. Nonacceptance would have caused embarrassment to donor and US Government.
Dr. Jeanne S. Mintz, Director for Far East/South Hemisphere Affairs, Office of the Under Secretary of Defense for Research and Engineering.	Sterling silver, rhodium-plated brooch w/six cultured pearls. Recd Feb. 13, 1985. Est. Value—$300. Delivered to GSA for disposition Feb. 27, 1985.	Gen. Osamu Namatame, JASDF (Ret), Senior Adviser, C. Itoh Electronics Corporation, Tokyo, Japan.	Nonacceptance would have caused embarrassment to donor.
Robert H. Pelletreau, Jr., Deputy Assistant Secretary of Defense (Near East and South Asia Affairs), Office of the Under Secretary of Defense for Policy.	18K gold Chopard Geneve watch w/gold band; 18K gold matching cuff links. Recd Nov. 18, 1985. Est. Value—watch—$5,000, cuff links—$400, Total—$5,400. Stored in office of the Deputy Assistant Secretary (Admin) pending transfer to GSA for disposition.	The Amir of Bahrain	Do.
Glenn A. Rudd, Deputy Director, Defense Security Assistance Agency.	Breitling Geneve aviator's watch, Navitimer Quartz C, Swiss made, stainless steel, #80970-7902. Recd July 1985. Est. Value—$595. Stored in office of the Deputy Assistant Secretary (Admin) pending transfer to GSA for disposition.	Col. Hamid Abdelli, Commander, Armed Forces, Democratic and Popular, Republic of Algeria.	Do.
Do	Large brass tray. Recd July 23, 1985. Est. Value—$300. Stored in Space Management and Services pending transfer to GSA for disposition.	do	Do.
Dr. Michael Ryan, Analysis Division, Plans Directorate, Defense Security Assistance Agency.	Breitling Geneve aviator's watch, Navitimer, Swiss made, stainless steel, #81470-11816. Recd July 23, 1985. Est. Value—$400. Stored in office of the Deputy Assistant Secretary (Admin) pending transfer to GSA for disposition.	do	Do.
William Howard Taft, IV, Deputy Secretary of Defense.	Brass water bird, approx. 4' tall; two carved ivory tusks, approx. 18" tall. Recd Feb. 21, 1985. Est. Value—bird—$100, tusks—$150, Total—$250. Approved for official display in office of donee.	General of the Army Likulia Zaire	Do.
Mrs. William Howard Taft, IV, Wife of the Deputy Secretary of Defense.	Brass figure of a woman, approx. 18" tall. Recd Feb. 21, 1985. Est. Value—$15. Approved for official display in office of the Deputy Secretary of Defense.	Mrs. Likulia, Wife of the General of the Army, Zaire.	Do.
William Howard Taft, IV, Deputy Secretary of Defense.	Men's 18K gold Omega watch, Quartz, date calendar window, w/crocodile veritable strap (brown). Recd Apr. 1, 1985. Est. Value—$450. Stored in office of the Deputy Assistant Secretary (Admin) pending transfer to GSA for disposition.	Minister of Defense Delamuraz of Switzerland.	Do.
Lt. Col. James W. Tilley, USAF, Weapons Systems Division, Plans Directorate, Defense Security Assistance Agency.	Breitling Geneve aviator's watch, Navitimer, Swiss made, stainless steel, #81770-11764. Recd July 23, 1985. Est. Value—$400. Stored in office of the Deputy Assistant Secretary (Admin) pending transfer to GSA for disposition.	Col. Hamid Abdelli, Commander, Armed Forces, Democratic and Popular, Republic of Algeria.	Do.
Caspar W. Weinberger, Secretary of Defense.	Asprey clock from London, in leather box. Recd Feb. 13, 1985. Est. Value—$300. Approved for official display in office of donee.	King Fahad of Saudi Arabia	Do.
Do	Eskimo art statue. Recd Mar. 17, 1985. Est. Value—$300. Approved for official display in office of donee.	Prime Minister Mulroney of Canada	Do.
Do	Men's 18K gold Omega watch, Quartz, date calendar window, w/crocodile veritable strap (brown). Recd Apr. 1, 1985. Est. Value—$450. Stored in office of the Deputy Assistant Secretary (Admin) pending transfer to GSA for disposition.	Minister of Defense Delamuraz of Switzerland.	Do.
Mrs. Caspar W. Weinberger, Wife of Secretary of Defense.	Ladies' 18K gold Omega watch w/crocodile veritable strap (brown). Recd Apr. 1, 1985. Est. Value—$350. Stored in office of the Deputy Assistant Secretary (Admin) pending transfer to GSA for disposition.	Mrs. Delamuraz, Wife of Minister of Defense of Switzerland.	Do.
Caspar W. Weinberger, Secretary of Defense.	Pakistani rug, approx. 3' x 5', red and beige. Recd Apr. 23, 1985. Est. Value—$200. Approved for official display in office of donee.	M/Gen Rahim Khan, Secretary General of Defense of Pakistan.	Do.

Department of Defense—Continued

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Do	Large Kutani vase w/cradle; a Japanese contemporary print (framed). Recd June 10, 1985. Est. Value—vase—$75, print—$150, Total—$225. Approved for official display in office of donee.	Minister of Defense Kato of Japan	Do.
Do	Small silver bowl, embossed design, with 4 coral beads on top of cover. Recd June 19, 1985. Est. Value—$500. Approved for official display in showcase, 8th corridor, E ring, Pentagon.	President Bourgiba of Tunisia	Do.
Do	Green serpentine eagle w/stand. Recd July 24, 1985. Est. Value—$600. Approved for official display in office of donee.	President Li of People's Republic of China.	Do.
Do	Sterling silver box w/small pieces of driftwood inside. Recd Oct. 4, 1985. Est. Value—$395. Approved for official display in office of donee.	Prince Sultan Bin Abdulaziz, Minister of Defense of Saudi Arabia.	Do.
Do	Large blue vase, Tao-KUANG Ware, in red box. Recd Nov. 5, 1985. Est. Value—$800. Approved for official display in office of donee.	Gen. Hau Pei-Tsun, Chief of General Staff, Ministry of Defense, Republic of China.	Do.

Defense Intelligence Agency

Report of Tangible Gifts

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Leonard H. Perroots, Lieutenant General, USA, Director.	Books about Korea. Recd November 1985. Est. Value—$506. Transferred to DIA Library for official use.	Yun Tae-Kyun, Lieutenant General, Republic of Korea.	Nonacceptance would have caused embarrassment to donor and US Government.
James A. Williams, Lieutenant General, USA, Director.	Books about Korea. Recd March 1985. Est. Value—$1,440. Transferred to DIA Library for official use.	Lee Seng-Kyu, Lieutenant General, Republic of Korea.	Do.

Federal Aviation Administration

Report of Tangible Gifts

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Donald D. Engen, Administrator, Federal Aviation Admin.	Reproduce Ch'ing Dynasty porcelain bowl, 14½" in diameter, depicting birthday ceremony for Empress of China. Received during official visit to China, June 1985. Estimated value: $250. Delivered to agency property custodian for appropriate disposition	Director of Civil Aviation, Peoples Republic of China	Do.

Federal Communications Commission

Report of Travel or Expenses of Travel

Name and title of recipient	Brief description of travel or travel expenses occurring entirely outside United States	Identity of foreign donor and government	Circumstances justifying acceptance
Kenneth C. Howard, Jr., Legal Asst. to Commissioner Quello, and spouse J. Nellie Liang.	The travel expenses consisted of: (1) round-trip transportation for two from Rome, Italy to Cagliari, Sardinia (Italy); (2) hotel accommodations from September 14 to September 18, 1985; (3) several meals during the course of the Prix Italia Conference; and (4) a day-tour of southern Sardinia with conference members on September 15. Estimated Value: $700.	Mr. Alvise Zorzi, Secretariat of the Prix Italia, Radio-Televisione Italiana (RAI), a branch of Italian Government.	These expenses were provided to allow Ken Howard to participate in the Prix Italia Conference on politics and the media, at the request of the Italian Government and RAI.

Federal Deposit Insurance Corporation

Report of Tangible Gifts

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and goverment	Circumstances justifying acceptance
Robert F. Mailovich, Associate Director, Planning and Program Development Branch.	Native decorative wall hanging, multi-colored, wool with metal handwork attached. Estimated Value: $250.00. Leather Business Portfolio. Estimated Value: $25.00 Book entitled: "Paisaje de Chile." Estimated value: $20.00. Retained at the agency for official display. Received April 1985.	Superintendent of Banks of Chile	Gift delivered following conclusion of conference.

Board of Governors of the Federal Reserve System

Report of Tangible Gifts

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Paul Volcker, Chairman	Set of 3 Uruguayan coins. Recd. June 26, 1985. Est. Value $170. Retained for Board use.	Ricardo Pascale, President, Central Bank of Uruguay; Ricardo Zerbino, Finance Minister, Uruguay.	To have refused would likely have caused offense or embarrassment.
Do	Set of 4 Venezuelan coins. Recd. November 25, 1985. Est. Value $615. Retained for Board use.	Manuel Azpurua, Minister of Finance, Venezuela.	Do.

Department of Justice

REPORT OF TANGIBLE GIFTS

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Edwin Meese III, Attorney General of the United States of America.	Eskimo Statue, soapstone. Recd. March 18, 1985. Est. Value—$540. Retained for official display in the Office of the Attorney General.	Prime Minister of Canada	Nonacceptance would have caused embarrassment to donor and U.S. Government
Do	Tea Service, silverplate. Recd. July 7, 1985. Est. Value—$260. Retained for official display in the Office of the Attorney General.	Police Chief, Casablanca, Morocco	Do.
Alan C. Nelson, Commissioner, Immigration and Naturalization Service.	Jewelry Box, lidded, 10" octagonal. Recd. October 3, 1985. Est. Value—$200. Reported to GSA for disposition instructions on October 29, 1985. Being held at INS Central Office.	Deputy Minister of Justice, Republic of Korea.	Do

Office of Personnel Management

REPORT OF TANGIBLE GIFTS

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Donald J. Devine, Director	Model of Korean Warship. Recd. April 22, 1985. Est. Value—$1,000. Immediately delivered to OPM for display in Civil Service Historical Room, where it remains.	Mr. Cho Ki Hyun, Ministry of Justice, Republic of Korea.	Presented officially to OPM before 20 senior Korean officials. Nonacceptance on return would have caused embarassment to Korean and U.S. Governments.

Department of State

REPORT OF TANGIBLE GIFTS

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Mrs. Walter Cutler, Wife of U.S. Ambassador to Saudi Arabia.	(1) Gold bracelet with five gold coins—1" in diameter. (2) Gold Medallion with Saudi emblem surrounded by 20 diamond chips, 3 small emeralds, 1 small ruby on gold chain. Recd December 1985. Est. Value—(1) $1800; (2) $600. Delivered to GSA for disposition Jan. 31, 1986.	Member of Royal Family of Saudi Arabia	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Mrs. John J. Eddy, Wife of Principal Officer Dhahran, Saudi Arabia.	Gold pendant with Saudi coin framed with gold filagree weighing approx. 20 grams with gold chain. Recd October 30, 1985. Est. Value—$344. Being held in the Office of Protocol pending transfer to GSA.	Wife of Mohammed bin Fahd, Governor of Eastern Province, Saudi Arabia.	Do.
Cindy Gossom, Department of State.	Omega watch, gold plated with crown insignia and face; brown band. Recd March 1984. Est. Value)—$200. Delivered to GSA for disposition Jan. 31, 1986.	Her Majesty Queen Noor of Jordan	Do.
Richard W. Murphy, Assistant Secretary of State, NEA.	Man's gold watch, dual-dial, black alligator strap. Recd May 16, 1985. Est. Value)—$500. Delivered to GSA for disposition Oct. 24, 1985.	His Majesty King Hassan of Morocco	Do.
Rozanne L. Ridgway, U.S. Ambassador to German Democratic Republic.	Leatherette satin-lined carrying case containing a hand-painted meissen porcelain coffee service for six. Recd July 9, 1985. Est. Value—$3000. Delivered to GSA for disposition Jan. 31, 1986.	H.E. Erich Honecker, Chairman, Council of State GDR and General Secretary of Socialist Union Party of Germany.	Do.
Selwa Roosevelt, Chief of Protocol	Longines Gold Watch, gold band; in green velvet case (18478416). Recd Feb. 15, 1985. Est. Value—$1200. Delivered to GSA for disposition Oct. 24, 1985.	His Majesty King Fahd of Saudi Arabia	Do.
Do	Sterling silver cigarette box (Sterling DEYHLE Germany). 5" by 7"; 1⅜" deep; bottom laminated plastic; inside wood. Recd October 2, 1985. Est. Value—$200. Approved for official display in office of donee.	His Majesty King Hussein of Jordan	Do.
Do	14½" oval silver tray with sail boat, palm tree and two cross swords engraved in center; ornate handles apple, pear, and strawberry in silver. Recd December 20, 1985. Est. Value—$650. Delivered to GSA for disposition Jan. 31, 1986.	Ambassador of Qatar and Mrs. Al-Ameri	Nonacceptance would have caused embarrassment to donors and U.S. Government.
Peter Sebastian, U.S. Ambassador to Tunisia.	Rug: berber wool, beige with brown motif; 94 x 68". Recd January 8, 1985. Est Value: $400. Approved for official display at American Embassy Tunis.	Governor of Kasserine, of Tunisia	Nonacceptance would have caused embarrassment to donor and U.S. Government.
George P. Shultz, Secretary of State.	Jaeger-LeCoultre pendulate timepiece; approx. 8" high, 4¾" wide, ¾" thick. Gold-tone movement and gold-tone attached stand. 1" border of green-dyed reptile skin, with gold-tone corner protectors. Recd Feb. 13, 1985. Est. Value—$1000. Approved for official display in office of donee.	His Majesty King Fahd of Saudi Arabia	Do.
Do	(1) Book: "Inconografia de Montevideo" and tourism pamphlets. (2) Silver metal commenorative coin, approx. 1½" wide, marking President Sanguinetti's inauguration. (3) Blue/green/black glass wall hanging approx. 20" round. Recd March 1, 1985. Est. Value—Combined $200. Delivered to GSA for disposition Oct. 24, 1985.	H.E. Julio Maria Sanguinett, President of Rep. of Uruguay.	Do.
George P. Shultz, Secretary of State, and Mrs. Shultz.	(1) Hand-woven wall hanging, approx. 4'4" x 5'7", Egyptian village scene. (2) Framed embroidery panel from town of Akhmim, approx. 2'4" x 5½ brownish-gold background material with embroidered gold, beige, and rust flowers and leaves. (3) Two framed papyrus paintings, 1'6" x 1'10", gold-tone frames; Pharonic scene, and two girls in garden. Recd March 13, 1985. Est. Value—Combined $200. Delivered to GSA for disposition Oct. 24, 1985.	H.E. Hosni Mubarak, President, Arab Rep. of Egypt	Do.
George P. Shultz, Secretary of State.	Eskimo sculpture of walrus, green soapstone, approx. 14¾" high with removable tusks. Recd March 18, 1985. Est. Value—$1000. Approved for official use in office of donee.	R.H. Brian Mulroney, PM of Canada	Do.
George P. Shultz, Secretary of State, and Mrs. Shultz.	(1) Metal sculpture approx. 12½" by Edgar Negret "Arbol de la Paz (Tree of Peace)" with brass presentation plaque. (2) Folio of 53 botanical prints "Melastomataceas." Recd April 3, 1985. Est. Value—Combined $250. Delivered to GSA for disposition Oct. 24, 1985.	H.E. Belisario Betancur, President, Rep. of Columbia and Mrs. Betancur.	Nonacceptance would have caused embarrassment to donors and U.S. Government.
Do	(1) Glass vase Roman period, approx. 9" high, 11" widest part—olive wood base—in case. (2) Rock crystal necklace with carnelian and gold beads, 24" long. Recd May 10, 1985. Est. Value—Combined $500. Delivered to GSA for disposition Oct. 24, 1985.	H.E. Shimon Peres, PM of Israel, and Mrs. Peres.	Do.

REPORT OF TANGIBLE GIFTS—Continued

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Do	Book: "Atlas de Joan Martinez 1587" in matching maroon sleeve, No. 86 approx 23½" tall x 16" wide. Recd May 24, 1985. Est. Value—$250. Delivered to GSA for disposition Oct. 24, 1985.	H.E. Fernando Moran Lopez, Minister of Foreign Affairs, Spain.	Nonacceptance would have caused embarrassment to donor and U.S. Government.
Do	(1) Silk Chinese tablecloth approx. 8' x 14' tan on tan flower design. (2) Jade peach tree, approx. 22" high incl. Cloissonne pot base (19 peaches). Recd July 25, 1985. Est. Value—Combined $400. Delivered to GSA for disposition Oct. 24, 1985.	H.E. Li Xiannian, Pres. of PR China, and Madame Lin.	Nonacceptance would have caused embarrassment to donors and U.S. Government.
Mrs. George P. Shultz, Wife of the Secretary of State.	Oval pendant 1 9/16" long, 1" wide, encasing Old Roman coin; gold surrounding coin in sort of fleur-de-lis pattern. Recd May 10, 1985. Est. Value—$250. Delivered to GSA for disposition Oct. 24, 1985.	Wife of the President of Israel	Nonacceptance would have caused embarrassment to donor and U.S. Government.
George P. Shultz, Secretary of State, and Mrs. Shultz.	(1) Roman glass fragment, approx. 3" wide (63 BCE 330 CE) on silver filigree base; presentation case of olive wood base; certificate of antiquity included. (2) Map of "Iudaea seu Terra Sancta quae Hebraeorum sive Israelitarum" framed; approx. 33" x 23"; outer frame approx. 40" x 30". (3) 12 bottles Israeli wine, Yarden Galil Sauvignon Blanc 1984. Recd October 17, 1985. Est. Value—Combined $300. Items (1) and (2) Delivered to GSA for disposition Jan. 30, 1986. Item (3) Approved for Department of State official use.	H.E. Shimon Peres, PM of Israel	Do.
George P. Shultz, Secretary of State.	(a) Leather briefcase; burgandy with gold-tone fittings; burgandy keycase; approx. 12" x 17½" x 3⅛". (b) Lacquer box; black background w/hand painted winter scene: 2 troikas with passengers. Approx. 7¾" x 2¼" x 1¼". (c) Two books: "The Tretyakov Gallery"; "The Andrei Rubliov Museum of Early Russian Art." Recd November 20, 1985. Est. Value—Combined $300. Delivered to GSA for disposition Jan. 31, 1986.	H.E. Mikhail Gorbachev, Gen. Secretary of the Central Committee of the Communist Party of U.S.S.R.	Do.
George P. Shultz, Secretary of State, and Mrs. Shultz.	(a) 18K gold "Ebel" watch, Roman numerals, leather case; separate leather case for guarantee, black leather band—approx 1¼" across face. (b) Ballpoint pen and holder with quartz watch/calendar "Caran d'Ache", in shape of "C", gold plated; in beige suede presentation case. (c) Swiss music box—approx. 12½" x 6¾" x 4"—Model 5705; plays Rigoletto and Aida; brown lacquer with flor and musical design on top and sides. Recd November 20, 1985. Est. Value—Combined $4,000. Delivered to GSA for disposition Jan. 31, 1986.	H.E. Rene Emmenegger, Mayor of the City of Geneva.	Do.
Do	(a) 18K gold necklace, approx. 17¼" long with removable pendentif which opens to encase different stones for decoration; total of 8 stones. (b) Lithography "View of Geneva" No. 86; matted and framed; 19½" x 17¼" overall size. Recd November 20, 1985. Est. Value—Combined $3500. Delivered to GSA for disposition Jan. 31, 1986.	H.E. Jaques Vernet, President of the Council of States, Geneva, Switzerland.	Do.
Do	(a) One table runner, approx. 38½" x 12"; brown velvet with gold-trim; floral motif embroidered in center, approx. 7½" x 9". (b) Herend porcelain table lamp approx. 14½" high (without shade) butterflies and flowers; handpainted Herand lampshade for lamp; approx. 11¾" high, white background with handpainted flowers and butterflies, gold-rope trim. Recd December 16, 1985. Est. Value—Combined $500. (a) Delivered to GSA for disposition Jan. 31, 1986. (b) Approved for official use at Blair House.	H.E. Peter Varkonyi, Foreign Minister of Hungary, and Mrs. Varkonyi.	Nonacceptance would have caused embarrassment to donors and U.S. Government.
Allen Wallis, Under Secretary of State for Economic Affairs.	Wool/silk rug, approx. 52" x 78⅛", gold, beige and black. Recd November 18, 1985. Est. Value—$700. Approved for official display in office of donee.	H.E. Mahbub-ul-Haq, Minister of Finance of Pakistan.	Do.

Office of the U.S. Trade Representative

REPORT OF TANGIBLE GIFTS

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
Michael B. Smith, Deputy U.S. Trade Representative.	.900 silver coffee server. Florentino Bogotas. Recd October 1985. Est. Value—$500. Being held in General Counsel's office pending transfer to GSA for disposition.	Head of Columbian Coffee Federation.	Nonacceptance would have caused embarrassment to donor.

Department of Treasury

REPORT OF TANGIBLE GIFTS

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
James A. Baker, III, Secretary of the Treasury.	Pair of 8" Cloissone vases. Recd June 24, 1985. Est. Value—$225. Being held in Gift Unit pending transfer to GSA for disposition.	Wang Bingqian, Minister of Finance, People's Republic of China.	Do.
Do	Sterling silver sword. Recd February 20, 1985. Est. Value—$400. On display in the Secretary's office.	King Fahd, Saudi Arabia	Do.
Julie Brink, Deputy Director, Scheduling Office.	18 K gold key chain. Recd April 24, 1985. Est. Value—$355. Being held in Gift Unit pending transfer to GSA for disposition.	Mohammed Abalkhail, Saudi Arabia	Do.
Robert A. Cornell, Deputy Assistant Secretary for International Affairs.	Pair of Cloisonne vases. Recd August 26, 1985. Est. Value—$250. Being held in Gift Unit pending transfer to GSA for disposition.	Li Fenggang, Ministry of Finance, China	Do.
Richard G. Darman, Deputy Secretary of the Treasury.	18 K gold key chain. Recd April 24, 1985. Est. Value—$355. Being held in Gift Unit pending transfer to GSA for disposition.	Mohammed Abalkhail, Saudi Arabia	Do.

DEPARTMENT OF TREASURY

REPORT OF TANGIBLE GIFTS

Name and title of recipient	Gift, date of acceptance, estimated value and current disposition or location	Identity of foreign donor and government	Circumstances justifying acceptance
David Mulford, Assistant Secretary, International Affairs.	18 K gold key chain. Received April 24, 1985. Estimated value—$355. Being held in Gift Unit pending transfer to GSA for disposition.	....do	Do.
Charles Schotta, Deputy Assistant Secretary for International Affairs.	18 K gold key chain. Received April 24, 1985. Estimated value—$355. Being held in Gift Unit pending transfer to GSA for disposition.	....do	Do.
Dorothy Mazaka, G. William Moser, Laura Desmon, Bonnie Pounds, Paul Ellis, Geoffrey Pope, Ken Harbinson.	18 K gold key chain. Received April 25, 1985. Estimated value—$355. Being held in Gift Unit pending transfer to GSA for disposition.	....do	Do.
Thomasina Gray, Richard Trent	Large 18K gold cuff links. Received April 25, 1985. Estimated Value—$450. Being held in Gift Unit pending transfer to GSA for disposition.	....do	Do.
Marilyn Sansbury, Thomas Davis, Priscilla Tester, Phyllis Davis, Debra Wilson, Theodore Bruce.	Small 18K gold cuff links. Received April 25, 1985. Estimated Value—$350. Being held in Gift Unit pending transfer to GSA for disposition.	....do	Do.

Veterans Administration

REPORT OF TRAVEL OR EXPENSES OF TRAVEL

Name and title of recipient	Brief description of travel or travel expenses occurring entirely outside United States	Identity of foreign donor and government	Circumstances justifying acceptance
Roland C. Blantz, M.D., Chief, Nephrology-Hypertension, VAMC, San Diego, CA.	Air fare to Acapulco, Mexico, and lodging while attending a nephorology meeting. Value—Unkown, in excess of $165. Rec'd. Nov. 20-24, 1985.	The Mexican Society of Nephrology, Mexico.	As an academic nephrologist and renal physiologist who published research in this field and discussions on basic research, clinical and renal transplantation papers were presented at the meeting; on annual leave during course of meeting.
James Boyle, Supervisory Personnel Management Specialist, VAMC, Bedford, MA.	Air fare to and lodging in Netherlands. Value—$10,000. Rec'd. April 30-May 15, 1985.	Netherlands	Recognition for World War II combat; on annual leave during the time.
Samuel E. Halpern, Acting Chief, Nuclear Medicine Service, VAMC, San Diego, CA.	Air fare to and expenses while visiting Europe. Value—$1,130. Rec'd. May 15, 1985.	Congress of Society of Nuclear Medicine, Europe.	Was invited to speak at the Nuclear Medicine in Clinical Oncology Symposium, held at Bonn, West Germany; on annual leave during time of visit.
Eli A. Ramirez, M.D., Physician, VAMC & ROC, San Juan, PR.	Air fare to and expenses while visiting Spain. Value—$800. Rec'd. September 24-29, 1985.	Sociedad Expañola De-Cardiologia, Spain	Presentation of lecture on VA research results; on annual leave during time of visit.
Rosalyn S. Yalow, Ph.D., Senior Medical Investigator, VAMC, Bronx, NY.	Prepaid ticket from New York to Geneva and from Zurich to New York. Value—$1,050. Rec'd. September 19-20, 1985.	Swiss forum on science and energy	Invited to present two lectures; on annual leave at during time of lectures.

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Federal Register

Friday
March 7, 1986

Part III

Department of the Treasury

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 24, 170, 231, and 240
Revision and Recodification of Wine Regulations; Proposed Rule

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

27 CFR Parts 24, 170, 231, and 240

[Notice No. 584; re: Notice No. 320]

Revision and Recodification of Wine Regulations

AGENCY: Bureau of Alcohol, Tobacco and Firearms (ATF), Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: ATF is publishing for comment a proposed revision and recodification of all Internal Revenue Code (IRC) wine regulations. When viewed from current perspectives, many existing regulations inadequately reflect wine industry technological advances. Some present regulations may also be unclear or overly complex. The intent of the extensive revision is to simplify, modernize and, to the maximum extent possible under existing law, liberalize the wine regulations to achieve a reduced regulatory burden and a resource savings for the wine industry and the Government.

This proposal will also locate all the regulations pertaining to wine issued under the IRC into a new 27 CFR Part 24. Currently, wine regulations are dispersed among several different regulatory parts within Title 27, Chapter I of the Code of Federal Regulations (27 CFR Chapter I). This system of organization is inefficient and imposes a burden on a user who is without knowledge of the entire system.

DATE: Written comments must be received by July 7, 1986.

ADDRESS: Send written comments to Chief, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco and Firearms, P.O. Box 385, Washington, DC 20044–0385 (Notice No. 584).

FOR FURTHER INFORMATION CONTACT: James A. Hunt, FAA, Wine and Beer Branch, Bureau of Alcohol, Tobacco, and Firearms, Ariel Rios Federal Building, 1200 Pennsylvania Avenue, NW., Washington, DC 20226 (202) 566–7626.

SUPPLEMENTARY INFORMATION:

General

The wine regulations have remained essentially unchanged for over 30 years while the wine industry has changed dramatically, especially in the past few years. Because of technological advances, the wine regulations are in need of updating and many of the present regulatory requirements are unnecessary. A revision of the wine regulations was started in 1979 with an advance notice of proposed rulemaking, Notice No. 320. Information was received from the wine industry and other interested persons on how the wine regulations could be revised. Regulations on records and reports were determined to be in particular need of revision and this project was completed with the publication of Treasury Decision ATF–63 in the **Federal Register** on January 24, 1980.

In early 1982, the Wine Institute submitted a number of suggested wine regulation changes for ATF's consideration. About this time most of the regulatory research and drafting work for the distilled spirits all-in-bond project was done, the number of viticultural area petitions became manageable, and other major legislative project requirements eased so that attention could be given to analyzing the Wine Institute's proposals and the suggestions accumulated from the Notice No. 320 (44 FR 29691).

The first action was to delete Subpart XX from 27 CFR Part 240, thereby eliminating approximately 80 regulatory sections. At the same time, the complex and somewhat controversial subject of materials and processes authorized for treatment of wine was opened for public comment with the publication of Notice No. 413 (47 FR 26399). Significant progress was made on this subject with the publication of Treasury Decision ATF–182 (49 FR 37510). However, a few issues are still unresolved and are being aired under Notice No. 543 (49 FR 37527).

In this notice, a revision of all IRC wine regulations in 27 CFR parts 170, 231 and 240 and a consolidation of these regulations into a new 27 CFR Part 24 is proposed. The revision recognizes technological advances in production, deletes numerous outdated and repetitive regulations, simplifies and clarifies regulatory language, reduces many regulatory burdens placed on the wine industry and on the Government. Specifically, the revision reduces the number of regulatory subparts for 60 to 15, the number of regulatory sections from 450 to 225, and the regulatory verbiage by about 65 percent. In addition, over 90 ATF rulings and revenue rulings would be eliminated or incorporated into the new regulations and 8 of 14 winery forms are eliminated.

Because the revision is extensive, the preamble of this notice is divided into two parts: (1) A brief explanatory discussion of each new subpart and (2) an indexed (Derivation) table which shows the present law, regulation or ruling from which each new regulatory section is derived.

Discussion of 27 CFR Part 24 Subparts A–O

Subpart A–Scope is revised to conform to the part headings in Subpchapter F of 26 U.S.C. Chapter 51. Also, the status and operation of previously approved bonded winery, bonded wine cellar, or taxpaid wine bottling house premises after the effective date of these regulations is addressed.

Subpart B—Definitions contains numerous definitions which are revised to be closer conformity with applicable statutory provisions. A few new definitions which reflect advances in wine technology or which improve understanding of the wine regulations have been added such as chaptalization, Brix, and use of gram per liter instead of parts per thousand.

Subpart C—Administrative and Miscellaneous Provisions is a new subpart which consolidates many wine regulations which are currently widely dispersed among 27 CFR Parts 170, 231, and 240. Several provisions in this subpart are not repeated in other subpart sections but are referenced. Found in this subpart are the regulations pertaining to authorities of the Director, regional director (compliance), and ATF officers; facilities and assistance; employer identification number; occupational taxes; assessments; claims; tax exempt wine; formulas; essences; conveyance of wine and spirits on wine premises; and samples. Provisions of Treasury Decision AFT–149 (48 FR 46426) regarding samples submitted with formulas are incorporated. The notice requirement for samples of spirits is eliminated. Also, specific requirements relating to office facilities are deleted.

Subpart D—Establishment and Operations contains regulations relating to the establishment of wine premises. This includes the types of wine premises, application procedures, changes in existing wine premises, alternation of the wine premises, bonds and consents of surety, and discontinuance of wine operations. The new regulations provide for the establishment of a bonded winery, bonded wine cellar, or taxpaid wine bottling house which are operationally termed wine premises. Wine premises may include both bonded wine premises and taxpaid wine premises. Segregation and identification of untaxpaid wine or spirits, taxpaid wine or spirits, and other products on wine premises is required, but a physical barrier such as a partition, fence, or wall would rarely be required. The new sections on alternation reflect changes in the way

wine premises are used in the wine industry. A taxpaid wine bottling house may be established if only operations involving taxpaid wine are desired. Application requirements are reduced. Many reguirements relating to information in making a decision on whether an application should be approved which ATF already has or which is determined to be unnecessary are eliminated. A single application form, ATF Form 5120.25 (698), is used to apply for the establishment of a bonded winery, bonded wine cellar or taxpaid wine bottling house. The requirement to submit a plat depicting the premises is deleted because, in most applications, a description of the premises is sufficient. Also, plats were usually prepared by an architect or engineer which put an added burden on the proprietor of a small winery. The provisions relating to the execution and filing of bonds and consents of surety are extensively revised. It is proposed that the obligation of the bonded wine cellar bond with respect to taxes which have been determined but not paid on wine removed from bonded wine premises be raised from $100 to $500. This will save most winery proprietors the expense and paperwork involved in obtaining a tax deferral bond. In addition, ATF is proposing that the obligation of the bond be broadened to cover volatile fruit-flavor concentrate or other commodities subject to tax under 26 U.S.C. Chapter 51 which are in transit to or on bonded wine premises. This change eliminates the need for a separate bond covering volatile fruit-flavor concentrate and for many of the currently required consents of surety. Further, ATF is proposing that a single form be used for both the bonded wine cellar bond and the tax deferral bond.

Subpart E—Construction and Equipment regulations are significantly reduced. The proposed requirements for construction and equipment allow for a greater degree of flexibility in establishing and operating a wine premises.

Subpart F—Production of Wine regulations are completely revised. The time of determining and reporting wine as produced is modified. The separate provisions which currently exist for grape and fruit wine production are consolidated, and, when appropriate, it is noted whether a provision is applicable to grape, fruit, or berry wine production. A new section allows for chaptalization, i.e., the addition of pure sugar to juice for the purpose of developing alcohol, so that wine may be produced from juice having both low sugar and low acid. The sections on amelioration and sweetening are completely revised and should be clearer and easier to understand. One provision on calculating the amount of ameliorating material allowed requires an acid level determination of juice before blending that juice with juice from another State. The sections on use of concentrated and unconcentrated fruit juice, sugar, acid, distillates containing aldehydes, and volatile fruit-flavor concentrate are revised and put into this new subpart.

Subpart G—Production of Effervescent Wine is revised to eliminate the requirement for filing a formula and statement of process. This is done because the processing methods and basic materials used for effervescent wine production are no longer considered unique. The subpart incorporates industry technological advances such as the bulk process and tank transfer methods of production in the section revisions.

Subpart H—Production of Special Natural Wine is reduced to the essentials by moving to another subpart the regulations on essences and procedures involved with obtaining formulas. This is done because the requirements for essences and formulas are also applicable to wine other than special natural wine.

Subpart I—Production of Agricultural Wine is also reduced in volume by combining a few of the sections and referencing the formula requirements.

Subpart J—Production of Other Than Standard Wine regulations are revised to be clearer and easier to understand. Added to this subpart is a provision which provides for the blending of wines made from different kinds of fruits. An increased interest in producing wine with sugar and water added beyond the limitations for standard wine resulted in an analysis and revision of the regulation covering these wines. The section on "Other wine", 24.218, will allow for the production of wine with sugar and water beyond the limitations prescribed for standard wine if the basic character is derived from the primary winemaking material. Also, the addition of wine spirits to "Other wine" is specifically provided for in § 24.218(b). Additionally, specifications for salted wine are incorporated in the section covering wine and wine products not for beverage use.

Subpart K—Spirits contains the provisions for use of wine spirits in beverage wine production and for use of spirits in nonbeverage wine production. Section 455 of the Deficit Reduction Act of 1984 (Pub. L. 98–369, 72 Stat. 1362, as amended), signed into law and effective on July 18, 1984, provides for the use of spirits other than wine spirits in the production of nonbeverage wine and wine products in the United States. Because the regulations implementing Section 455 were published as a final rule without public comment (T.D. ATF–186, 49 FR 42567), this is the first opportunity for public comment on these regulations. The application to withdraw wine spirits and the report of wine sprits added to wine are eliminated. The new regulations incorporate rulings allowing for the addition of spirits without Government supervision, which has proved to be an efficient method of operation for the wine industry and the Government for several years.

Subpart L—Storage, Treatment and Finishing of Wine contains, in sections 24.246 through 24.250, regulations relating to materials and processes authorized for the treatment of standard wine, juice and distilling material, the subject of Notice No. 413 (47 FR 26399) published on June 18, 1982, and Notice No. 543 (49 FR 37527) and Treasury Decision ATF–182 (49 FR 37510) published on September 24, 1984. These complex and somewhat controversial sections are again opened for review and comment by the issuance of this notice. Also, included in this new subpart are several sections which deal specifically with the bottling, packing, and labeling of wine. Due to the increased use of larger sized containers as consumer units in the marketing of wine and a need to achieve a uniform understanding of the terms "bottle" and "container" for regulatory purposes, the following definitions (also found in Subpart B) are under consideration for use in this part: a *bottle* is four liters (one gallon) or less; a *container* is larger than four liters; a *bulk container* is over 60 liters; a *case* is two or more bottles, or one or more containers enclosed in a box or fastened together; a *bottler* is a wine premises proprietor who fills wine into a bottle; and a *packer* is a wine premises proprietor who fills wine into a container. Additionally, a new section is proposed to cover the aging of wine after bottling or packing. Fill tolerances based on the sizes of bottles and containers and allowing for a level of overfill not to exceed 0.5 percent are proposed as well as requirements to determine bottle or container net contents and the alcohol content. Due to the advent to low alcohol wine not covered by the labeling provisions of the FAA Act, a label for any wine under 7 percent alcohol by volume will be required to show the actual alcohol percent by volume with a tolerance of

plus or minus 10 percent and be designated a wine.

Subpart M—Losses of Wine consolidates this important subject into one subpart to allow for an easy reference to the method of reporting and accounting for losses of wine.

Subpart N—Removal, Return and Receipt of Wine is divided into sections addressing taxpaid removals and payment by check, cash, money order or EFT, transfer of wine in bond, removals without payment of tax, return of taxpaid wine to bond, and taxpaid wine operations. One form, Excise Tax Return, ATF F 5000.24, will replace the Wine Tax Return, ATF F 5120.27, and Prepayment Return—Wine Tax, ATF F 5120.37, forms. Due to a significant increase in the past five years in the number of small wineries paying less than $500 in wine tax annually, ATF is proposing to allow these taxpayers to file returns annually rather than twice a month. In addition, it is proposed that proprietors who paid less than $5,000 the previous calendar year be allowed to file quarterly returns. These changes, if adopted, would eliminate the necessity of filing and processing over 12,000 tax returns which are currently being filed each year. ATF Form 703, Transfer of Wine in Bond, is eliminated, resulting in another significant reduction in paperwork burden. The new section on taxpaid wine operations incorporates much of what is now in 27 CFR Part 231—Taxpaid Wine Bottling Houses.

Subpart O—Records and Reports is updated and revised to make it easier to find the recordkeeping requirements. Even though the regulations on records and reports were the subject of a revision recently, several further reductions in recordkeeping and reporting requirements are proposed. Recordkeeping requirements on maintaining an audit trail to allow verification of label information is more clearly defined. A significant change for a winery with limited operations which are not difficult to audit would be allowing source records to be used as the daily record and use of an abbreviated monthly summary record of operations, such as use of an adding machine tape.

Outline of Derivation and Revision for 27 CFR Part 24

The following table is provided to aid in the understanding of the regulation changes proposed. The table provides the applicable statutory authority, the regulatory section, or the ruling from which the proposed regulation is derived. In addition, the extent to which a regulation is revised or whether it is a new regulatory section is indicated.

Action Legend:
C=Complete revision.
O=No revision.
P=Partial revision.
N=New section.

PART 24—WINE

Subpart A—Scope

Sec.		
24.1	General	170.681, 231.1, 240.1/C
24.2	Teritorial extent.	5065/N
24.3	Status and operation of existing premises.	231.63, 240.123/C
24.4	Related regulations.	Reference Section/N

SUBPART B—DEFINITIONS

24.10	Meaning of terms.	231.10, 240.10/P
	Affiliated person or firms.	5392/P
	Agricultural wine.	5387/P
	Allied products	5361/P
	Amelioration	5383/P
	Area supervisor.	N
	Artificially carbonated wine.	5041/P
	ATF officer	O
	Bank	O
	Banking day	O
	Bonded wine premises.	N
	Bonded winery	5351/P
	Bonded wine cellar.	5351/P
	Bonded wine warehouse.	5353/N
	Bottle	5368/N
	Bottler	5368/N
	Brix	N
	Bulk container	5368/N
	Business day	O
	Calendar year	N
	Case	5368/N
	Concentrate plant.	5511/O
	Container	5368/N
	Chaptalization	5382, 5383/N
	Director	O
	Director of the service center.	P
	Distilled spirits plant.	5002/P
	Distilling material.	5222/N
	District director.	P
	Effervescent wine.	5041/C
	Electronic fund transfer or EFT.	O
	Executed under the penalties of perjury.	O
	Export or exportation.	N
	Fiduciary	7701/N
	Financial institution.	N
	Fold	O
	Foreign wine	231.10/O
	Fruit must	N
	Fruit wine	N
	Gallon or wine gallon.	5041/O
	Grams per liter	N
	Grape wine	N
	Heavy bodied blending wine.	5392/O
	High-proof concentrate.	N
	In bond	5362/P
	Invert sugar syrup.	5392/P
	Juice	P
	Kind	N
	Lees	O
	Liter	O
	Liquid sugar	5392/P
	Lot	ATF Ruling 80-14/N
	Natural wine	5381/N
	Nonbeverage wine.	5362, 170.682/P
	Own production.	5392/N
	Packer	5368/N
	Person	5690, 7701/P
	Proof	O
	Proof gallon	5002/C
	Proprietor	P
	Pure sugar	5392/P
	Reconditioning	N
	Region	N
	Regional director (compliance).	N
	Same kind of fruit.	5392/O
	Secretary	N
	Service center	P
	Sparkling wine	5041/P
	Special natural wine.	5386/C
	Specially sweetened natural wine.	5385/P
	Spirits or distilled spirits.	5002/N
	Standard wine	5392/O
	Still wine	5041/C
	Sugar	O
	Sweetening	5383/N
	Tax year	O
	Taxpaid wine	P
	Taxpaid wine bottling house.	N
	Taxpaid wine premises.	N
	This chapter	N
	Total solids	5392/O

Sec.		
	Treasury account.	O
	U.S.C.	O
	United States or U.S. wine.	P
	Volatile fruit-flavor concentrate.	5511/P
	Wine	5041/C
	Wine premises	N
	Wine spirits	C

SUBPART C—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

Authorities of the Director

24.20	Forms prescribed.	231.2, 240.2/P
24.21	Modified forms	5367, 5555, 240.905/C
24.22	Alternate method or procedure.	231.120, 240.940–240.942/P

Authorities of the Regional Director (Compliance)

24.25	Emergency variations from requirements.	240.120/P
24.26	Authority to approve.	231.60, 240.211, 240.235/P
24.27	Segregation of operations.	240.131, 240.511, 240.891/P
24.28	Installation of meters, tanks, and other apparatus.	5552/N
24.29	Claims	5008, 5370/N
24.30	Supervision	5366, 5553, 240.821/P
24.31	Submission of forms and reports.	5555/N
24.32	Records	5367, 5555/N

Authorities of ATF Officers

24.35	Right of entry and examination.	231.130, 240.925, 240.950/P
24.36	Instruments and measuring devices.	5357, 5366, 5368/N
24.37	Samples for the United States.	5362, 5373, 5511, 5557/N

Facilities and Assistance

24.40	Gauging and measuring.	5357, 5366, 5368/N
24.41	Office facilities	240.143/C

Employer Identification Number

24.45	Use on returns	240.594a/P
24.46	Application	40.594b/P
24.47	Execution of IRS Form SS–4.	240.594c/P

Occupational Taxes

24.50	Payment of tax	231.52, 240.340/P
24.51	Exemption from occupational tax.	240.341, 240.342/P
24.52	Wholesale dealer.	240.342a/P
24.53	Filing of return	231.52, 240.343, 240.344/P
24.54	Hand-carried returns.	240.345/P
24.55	Special tax stamp.	5141, 5143, 5146/N

Assessments

24.60	General	240.881, 240.943/P
24.61	Assessment of tax.	240.881, 240.943/C
24.62	Notice	240.943/P

Claims

24.65	Claims for wine or spirits lost or destroyed in bond.	240.787, 240.789, 240.857, 240.859/C
24.66	Claims on wine returned to bond.	240.802, 240.805–240.809/C
24.67	Other claims	Reference Section/N
24.68	Insurance coverage.	240.790, 240.809, 240.851/O
24.69	Filing of claims	240.788, 240.789, 240.806, 240.807, 240.857, 240.858/C
24.70	Claims for credit of tax.	5044, 5370/N

Tax Exempt Wine

24.75	Wine for personal or family use.	240.540, 240.541/C
24.76	Cider	240.544/P
24.77	Experimental wine.	240.545–240.550/C

Formulas

24.80	General	170.686, 240.441, 240.465, 240.482/C
24.81	Filing of formulas.	170.686, 240.441, 240.465, 240.482/C
24.82	Samples	170.686, 240.441, 240.465, 240.482/C

Essences

24.85	Essences	240 Subpart S/C
24.86	Essences produced on wine premises.	240 Subpart S/C
24.87	Essences made elsewhere.	240 Subpart S/C

Conveyance of Wine and Spirits on Wine Premises

24.90	Taxpaid products.	5365/N
24.91	Conveyance of untaxpaid wine or spirits within a bonded wine premises.	5357, 240.195/C
24.92	Products in customs custody.	5361/N

Samples

24.95	General	240.740, 240.840/C
24.96	Use off premises.	240.741–240.744, 240.840, 240.841/C
24.97	Use off premises.	240.745, 240.746, 240.840, 240.841/C

SUBPART D—ESTABLISHMENT AND OPERATIONS

24.100	General	231.30, 240.120/C

Premises and Operations

24.101	Bonded wine premises.	240.120–240.122, 240.208/C
24.102	Taxpaid wine premises.	231.30, 240.124/C
24.103	Other operations.	231.31, 240.134/C

Application

24.105	General	231.50, 240.190, 240.200/C
24.106	Basic permit requirements.	231.51, 240.191/P
24.107	Designation as bonded winery.	240.193/C
24.108	Bonded wine warehouse application.	240.201/P
24.109	Data for application.	170.683, 231.50, 240.190, 240.194, 240.198, 240.210, 240.513, 240.890/C
24.110	Organizational documents.	231.54–231.56, 240.202–240.204/C
24.111	Description of premises.	231.50, 240.195, 240.196/C
24.112	Description of equipment.	240.197/C
24.113	Trade names	231.50, 240.192/C
24.114	Description of volatile fruit-flavor concentrate operations.	5361, 5511, 240.890/P
24.115	Registry of stills.	5179, 5511/N
24.116	Registry number.	231.60, 240.211/C
24.117	Powers of attorney.	231.57, 240.205, 240.207/C
24.118	Maintenance of application file.	231.61, 240.212, 240.213/C

Changes Subsequent to Original Establishment

24.120	Amended application.	231.53, 240.199, 240.280–240.283/C
24.121	Changes affecting permits.	240.281/C

Sec.		
24.122	Change in name of proprietor or trade name.	231.53, 240.192, 240.281–240.283/C
24.123	Change in stockholders.	231.59, 240.296/P
24.124	Change in corporate officers.	240.296/P
24.125	Change in proprietorship.	231.59, 240.285–240.287, 240.289, 240.295/C
24.126	Change in proprietorship involving a bonded wine warehouse.	240.292/P
24.127	Adoption of formulas.	240.290a/C
24.128	Continuing partnerships.	231.59, 240.293, 240.294/P
24.129	Change in location.	231.53, 240.310/C
24.130	Change in volatile fruit-flavor concentrate operations.	240.890/C
24.131	Changes in construction and use of buildings and equipment.	231.53, 240.312/C
	Alternation	
24.135	Wine premises alternation.	5363, 5365, 5367/N
24.136	Procedure for alternating proprietors.	5351–5352, 5356, 5361–5363, 5367, 5373/N
24.137	Alternate use of wine premises for customs purposes.	5356, 5357, 5361, 5365, 5367/N
	Permanent Discontinuance of Operations	
24.140	Notice	231.62, 240.320, 240.321/C
24.141	Bonded wine warehouse.	240.322/C
	Bonds and Consents of Surety	
24.145	General requirements.	240.208, 240.220/C
24.146	Bonds	170.683, 240.221, 240.222, 240.225, 240.880/C
24.147	Operations bond or unit bond.	240.221a/O
24.148	Penal sums of bonds.	240.221, 240.222, 240.225, 240.880/C
24.149	Corporate surety.	240.226/C
24.150	Powers of attorney.	240.228/O
24.151	Deposit of collateral security.	240.229/C
24.152	Consents of surety.	240.231/P
24.153	Strengthening bonds.	240.232/C
24.154	New or superseding bonds.	240.233, 240.234/C
24.155	Disapproval and appeal from disapproval.	240.235–240.237/C
24.156	Termination of bonds.	240.250, 240.251, 240.256, 240.257/C
24.157	Application by surety for relief from bond.	240.252/C
24.158	Extent of relief	240.253–240.255/C
24.159	Release of collateral security.	240.258, 240.259/C
	Subpart E—Construction and Equipment	
24.165	Premises	231.40, 240.140/C
24.166	Buildings and rooms.	231.40, 240.140, 240.142, 240.145/C
24.167	Tanks	170.684, 231.42, 240.160–240.164, 240.166–240.168, 240.170, 240.198/C
24.168	Identification of tanks.	231.42, 240.145, 240.163–240.165/C
24.169	Pipelines	231.43, 240.169, 240.171, 240.172/C
24.170	Measuring devices and testing instruments.	240.173/C
	Subpart F—Production of Wine	
24.175	General	240.350/C
24.176	Crushing and fermentation.	240.361, 240.362, 240.365, 240.367, 240.401, 240.402, 240.405, 240.408/C
24.177	Chaptalization	N
24.178	Amelioration	240.366, 240.407/P
24.179	Sweetening	240.368, 240.406, 240.409, Subpart R/C
24.180	Use of concentrated and unconcentrated fruit juice.	240.353, 240.403/P
24.181	Use of sugar	240.354, 240.368, 240.406/C
24.182	Use of acid to correct natural deficiencies.	240.364, 240.404/C
24.183	Use of distillates containing aldehydes.	240.490, 240.491/P
24.184	Use of volatile fruit-flavor concentrate.	240.357, 240.358, 240.359/C
	SUBPART G—PRODUCTION OF EFFERVESCENT WINE	
24.190	General	240 Subpart W/C
24.191	Segregation of operations.	240 Subpart W/C
24.192	Process and materials.	240 Subpart W/C
24.193	Conversion into still wine.	240 Subpart W/C
	SUBPART H—PRODUCTION OF SPECIAL NATURAL WINE	
24.195	General	240 Subpart S/C
24.196	Formula required.	240 Subpart S/C
24.197	Production by fermentation.	240 Subpart S/C
24.198	Blending	240 Subpart S/C
	SUBPART I—PRODUCTION OF AGRICULTURAL WINE	
24.200	General	240 Subpart T/C
24.201	Formula required.	240 Subpart T/C
24.202	Dried Fruit	240 Subpart T/C
24.203	Honey wine	240 Subpart T/C
24.204	Other agricultural products.	240 Subpart T/C
	SUBPART J—PRODUCTION OF OTHER THAN STANDARD WINE	
24.210	Classes of wine other than standard wine.	240 Subpart U/C
24.211	Formula required.	240 Subpart U/C
24.212	High fermentation wine.	240 Subpart U/C
24.213	Heavy bodied blending wine.	240 Subpart U/C
24.214	Spanish type blending sherry.	240 Subpart U/C
24.215	Wine or wine products not for beverage use.	240 Subpart U/C 170 Subpart Z/C
24.216	Distilling material.	240 Subpart U/C
24.217	Vinegar stock	240 Subpart U/C
24.218	Other wine	240 Subpart U/C
24.219	Spoiled wine	240 Subpart U/C
	SUBPART K—SPIRITS	
24.225	General	240.374, 240.820/C
24.226	Receipt or transfer of spirits.	240.822, 240.839/C
24.227	Transfer of spirits by pipeline for immediate use.	240.824/P
24.228	Transfer of spirits by pipeline to a spirits storage tank.	240.825/P

Sec		
24.229	Tank car and tank truck requirements.	240.826/P
24.230	Examination of tank car or tank truck.	240.827/P
24.231	Receipt of spirits in sealed bulk containers.	240.828/P
24.232	Gauge of spirits.	240.831/P
24.233	Addition of spirits to wine.	240.830, 240.832/P
24.234	Other use of spirits.	240.835/P
24.235	Taxpayment or destruction of spirits.	240.836, 240.838/C
24.236	Losses of spirits.	240 Subpart QQ/C
24.237	Spirits added to juice or concentrated fruit juice.	240.383/P

SUBPART L—STORAGE, TREATMENT AND FINISHING OF WINE

24.240	General	240.520, 240.524/C
24.241	Decolorizing wine.	240.527/P
24.242	Authority to use greater quantities of activated carbon in juice and in white wine.	240.527a/P
24.243	Filtering aids	240.528/P
24.244	Use of acid to stabilize standard wine.	240.526/P
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Public Participation

Although many specific changes are proposed to make the wine regulations as simple and clear as possible, it is recognized that other changes which have merit may not have been considered. Therefore, ATF invites comments on additional regulatory changes that consumers, industry members, and other interested parties feel should be made to the proposed wine regulations. Comments received after the closing date and too late for consideration will be treated as possible suggestions for future agency action.

ATF will not recognize any material or comment as confidential. Comments may be disclosed to the public. Any material which the respondent considers to be confidential or inappropriate for disclosure to the public should not be included in the comment. The names of commenters are not exempt from disclosurre.

All comments received and copies of the proposed regulations will be available for public inspection during normal business hours at the:

ATF Reading Room, Office of Public Affairs and Disclosure, Ariel Rios Federal Building, Room 4406, 1200 Pennsylvania Avenue, NW., Washington, DC

Any person who desires an opportunity to comment orally at a public hearing on these proposed regulations should submit a request, in writing, to the Director within the comment period. The Director, however, reserves the right to determine, in the light of all circumstances, whether a public hearing should be held.

Regulatory Flexibility Act

The provisions of the Regulatory Flexibility Act relating to an initial and final regulatory flexibility analysis (5 U.S.C. 603, 604) are not applicable to this proposal because this proposed rule, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities. The proposal is not expected to have significant secondary or incidental effects on a substantial number of small entities or to impose, or otherwise cause, a significant increase in the reporting, recordkeeping, or other compliance burdens on a substantial number of small entities.

Accordingly, it is hereby certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)), that the notice of proposed rulemaking, if promulgated as a final rule, will not have a significant economic impact on a substantial number of small entities.

Executive Order 12291

It has been determined that this proposed rule is not a "major rule" within the meaning of Executive Order 12291 (46 FR 13193) of February 17, 1981, because it will not have an annual effect on the economy of $100 million or more; it will not result in a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and it will not have significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Paperwork Reduction Act

The requirements to collect information proposed in this notice of proposed rulemaking have been submitted to the Office of Management and Budget under section 3504(h) of the Paperwork Reduction Act of 1980, Pub. L. 96–511, 44 U.S.C. Chapter 35. Comments relating to AFT's compliance with 5 CFR Part 1320—Controlling Paperwork Burdens on the Public should be submitted to: Office of Information and Regulatory Affairs, Attention: ATF Desk Officer, Office of Management and Budget, Washington, DC 20503.

List of Subjects in 27 CFR Part 24

Administrative practice and procedure, Authority delegations, Claims, Electronic fund transfers, Excise taxes, Exports, Food additives, Fruit juices, Labeling, Liquors, Packaging and containers, Reporting requirements, Research, Scientific equipment, Spices and flavorings, Surety bonds, Taxpaid wine bottling house, Transportation, Vinegar, Warehouses, Wine.

Drafting Information

The principal authors of this document are James A. Hunt and Jim Whitley, Regulations and Procedures Division, Bureau of Alcohol, Tobacco and Firearms, Washington, DC.

Obsolete Wine Rulings

The provisions of the following Revenue Rulings and ATF Rulings and Procedures are either incorporated into or are obsoleted by the proposed regulations: Revenue Rulings 54–351, 1954–2 C.B. 462; 54–375, 1954–2 C.B. 559; 54–495, 1954–2 C.B. 522; 55–213, 1955–1 C.B. 596; 55–214, 1955–1 C.B. 597; 55–215, 1955–1 C.B. 599; 55–322, 1955–1 C.B. 596; 55–344, 195–1 C.B. 597; 55–363, 1955–1 C.B. 595; 55–489, 1955–2 C.B. 499; 55–535, 1955–2 C.B. 707; 55–536, 1955–2 C.B. 710; 55–667, 1955–2 C.B. 710; 55–668, 1955–2 C.B. 711; 55–742, 1955–2 C.B. 706; 55–743, 1955–2 C.B. 705; 55–744, 1955–2 C.B. 706; 56–8, 1956–1 C.B. 749; 56–10, 1956–1 C.B. 748; 56–32, 1956–1 C.B. 750; 56–201, 1956–1 C.B. 748; 56–494, 1956–2 C.B. 1044; 56–535, 1956–2 C.B. 1032; 56–536, 1956–2 C.B. 1032; 56–550, 1956–2 C.B. 1042; 57–99, 1957–1 C.B. 609; 57–158, 1957–1 C.B. 561; 57–197, 1957–1 C.B. 607; 57–291, 1957–1 C.B. 608; 57–413, 1957–2 C.B. 965; 57–477, 1957–2 C.B. 966; 57–557, 1957 C.B. 965; 58–87, 1958–1 C.B. 598; 58–597, 1957–2 C.B. 1003; 59–353, 1959–2 C.B. 606; 59–413, 1959–2 C.B. 518; 60–94, 1960–1 C.B. 710; 61–125, 1961–2 C.B. 282; 62–25, 1962–1 C.B. 356; 63–31, 1963–1 C.B. 300; 63–71, 1963–1 C.B. 82; 63–192, 1963–2 C.B. 136; 64–299, 1964–2 C.B. 574; 66–166, 1966–1 C.B. 333; 66–361, 1966–2 C.B. 538; 67–83, 1967–1 C.B. 410; 67–84, 1967–1 C.B. 410; 69–521, 1969–2 C.B. 274; 70–113, 1970–1 C.B. 332; 70–210, 1970–1 C.B. 332; 71–54, 1971–1 C.B. 457; 71–500, 1971–2 C.B. 455; 72–204, 1972–1 C.B. 422; 72–272, 1972–1 C.B. 411; ATF Rulings 72–2, 1972–ATF C.B. 84; 73–4, 1973–ATF C.B. 83; 73–15, 1973–ATF C.B. 78; 74–10, 1974–ATF C.B. 40; 75–2, 1975–ATF C.B. 50; 75–8, 1975–AFT C.B. 38; 75–13, 1975–ATF C.B. 52; 75–19, 1975–ATF C.B. 51; 75–34, 1975–ATF C.B. 49; 76–21, 1976–ATF C.B. 90; 79–12, ATF Quarterly Bulletin 1979–2, 6; 80–14, ATF Quarterly Bulletin 1980–3, 19; 81–9, ATF Quarterly Bulletin 1981–4, 25; 82–1, ATF Quarterly Bulletin 1982–1, 16; and Revenue Procedures 62–34, 1962–2 C.B. 534; 72–30, 1972–1 C.B. 759; and ATF Procedure 74–2, 1974–ATF C.B. 69.

Authority and Issuance

Paragraph 1. 27 CFR PART 170—Miscellaneous Regulations Relating to Liquors authority citation is revised to read as follows:

Authority: 6 U.S.C. 6, 7; 18 U.S.C. 926; 22 U.S.C. 2778; 26 U.S.C. 5001, 5002, 5064, 5111, 5121, 5171, 5205, 5291, 5301, 5362, 7805; 26 U.S.C. 205; 44 U.S.C. 3504(h).

Par. 2. 27 CFR Part 170 is amended by reserving the heading for Subpart Z, Regulations Respecting Wine and Wine Products Rendered Unfit for Beverage Use, and removing both the table of sections and all the regulatory sections (170.681 through 170.691), and revising and incorporating these provisions, after revision, into a new 27 CFR Part 24—Wine

Par. 3. 27 CFR PART 231—TAXPAID WINE BOTTLING HOUSES is removed and the provisions revised and incorporated into a new 27 CFR PART 24—WINE.

Par. 4. 27 CFR PART 240—WINE is revised and redesignated as 27 CFR PART 24—WINE to read as follows:

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Authority: 5 U.S.C. 552(a); 6 U.S.C. 6, 7, 15; 26 U.S.C. 5001, 5008, 5041–5044, 5061, 5062, 5064, 5065, 5111–5113, 5121, 5122, 5142, 5143, 5146, 5173, 5179, 5206, 5214, 5215, 5332, 5351–5354, 5356–5358, 5361–5373, 5381–5388, 5391, 5392, 5511, 5512, 5551–5553, 5555–5557, 5661, 5662, 5684, 6065, 6091, 6109, 6201, 6301, 6302, 6311, 6651, 6656, 6676, 6806, 6861, 7011, 7110, 7302, 7342, 7502, 7503, 7601, 7602, 7606, 7805, 7851; 27 U.S.C. 203, 205; 31 U.S.C. 9301, 9303, 9304, 9306.

Subpart A—Scope

§ 24.1 General.

The regulations in this part relate to the establishment and operation (including incidental activities) of wine premises and to the treatment and classification of wine.

§ 24.2 Territorial extent.

This part applies to the several States of the United States and the District of Columbia.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1337, as amended (26 U.S.C. 5065))

§ 24.3 Status and operation of existing premises.

(a) *Qualification.* Proprietors of a previously approved bonded winery, bonded wine cellar, or taxpaid wine bottling house may continue to operate, pursuant to their prior qualification, after the effective date of this part. All wine premises hereafter established, and changes in existing premises, will be in conformity with the provisions of this part.

(b) *Continuing operations.* All operations at a bonded winery, bonded wine cellar, or taxpaid wine bottling house will be conducted pursuant to the provisions of this part. The proprietor will determine whether operation under any previous approved alternate method or procedure, emergency variation from requirements, or exceptions to construction and equipment requirements or methods of operation is consistent with the provisions of this part. The proprietor will immediately discontinue the conduct of any operation determined to be inconsistent with the provisions of this part. Each proprietor shall submit to the regional director (compliance), within 60 days after the effective date of this part, a list which describes and gives the original approval date of each authorization to be continued. Any prior authorization not listed by the proprietor will automatically terminate 60 days after the effective date of this part.

§ 24.4 Related regulations.

Regulations related to this part are listed below:

26 CFR Part 301—Procedure and Administration.
27 CFR Part 1—Basic Permit Requirements Under the Federal Alcohol Administration Act.
27 CFR Part 2—Nonindustrial Use of Distilled Spirits and Wine.
27 CFR Part 4—Labeling and Advertising of Wine.
27 CFR Part 13—Gauging Manual.

27 CFR Part 18—Production of Volatile Fruit-Flavor Concentrates.
27 CFR Part 19—Distilled Spirits Plants.
27 CFR Part 170—Miscellaneous Regulations Relating to Liquor.
27 CFR Part 194—Liquor Dealers.
27 CFR Part 200—Rules of Practice in Permit Proceedings.
27 CFR Part 250—Liquors and Articles from Puerto Rico and the Virgin Islands.
27 CFR Part 251—Importation of Distilled Spirits, Wines and Beer.
27 CFR Part 252—Exportation of Liquors.
31 CFR Part 225—Acceptance of Bonds, Notes, or Other Obligations Issued or Guaranteed by the United States as Security in Lieu of Surety or Sureties on Penal Bonds.

Subpart B—Definitions

§ 24.10 Meaning of terms.

When used in this part and in the forms prescribed under this part, terms will have the meanings ascribed in this section. Words in the plural form also include the singular, and *vice versa*, and words imparting the masculine gender also include the feminine. The terms "includes" and "including" do not exclude items not enumerated which are in the same general class. The definitions in this section do not supersede or affect the requirements of Part 4 of this chapter, relative to the labeling of wine under the provisions of the Federal Alcohol Administration Act (49 Stat. 981; 27 U.S.C. 205).

Affiliated persons or firms. When used in connection with "own production", one or more bonded wine premises proprietors associated as members of the same farm cooperative, or any one or more bonded wine premises proprietors affiliated within the meaning of section 17(a)(5) of the Federal Alcohol Administration Act, as amended (49 Stat. 989; 27 U.S.C. 211).

Agricultural wine. Wine made from suitable agricultural products other than the juice of grapes, berries, or other fruits.

Allied products. Commercial fruit products and by-products (including volatile fruit-flavor concentrate) not taxable as wine.

Amelioration. The addition to juice or natural wine before, during, or after fermentation, of either water or pure sugar, or a combination of water and pure sugar, or liquid sugar or invert sugar syrup, to adjust the acid level.

Area supervisor. The supervisory officer of a Bureau of Alcohol, Tobacco and Firearms area office.

Artificially carbonated wine. Effervescent wine artificially charged with carbon dioxide and containing more than 0.392 grams of carbon dioxide per 100 milliliters.

ATF officer. An officer or employee of the Bureau of Alcohol, Tobacco and Firearms (ATF) authorized to perform any functions relating to the administration or enforcement of this part.

Bank. Any commercial bank or other financial institution.

Banking day. Any day during which a bank or other financial institution is open to the public for carrying on substantially all its banking functions.

Bonded winery. The designation given to bonded wine premises established under the provisions of this part on which wine production operations are conducted and other authorized operations may be conducted.

Bonded wine cellar. The designation given to bonded wine premises established under the provisions of this part including premises designated as a bonded winery.

Bonded wine premises. Wine premises established under the provisions of this part on which operations in untaxpaid wine are authorized to be conducted.

Bonded wine warehouse. The designation given to warehouse facilities established under the provisions of this part on bonded wine premises by a warehouse company or other person for the storage of wine and allied products for credit purposes.

Bottle. A receptacle four liters or less in capacity, regardless of the material from which it is made, used to store wine or to remove wine from wine premises.

Bottler. A proprietor of wine premises established under the provisions of this part who fills wine into a bottle.

Brix. The quantity of dissolved solids expressed as grams of sucrose in 100 grams of solution at 60 degrees F. (Percent by weight of sugar).

Bulk container. Any container larger than 60 liters.

Business day. Any day, other than Saturday, Sunday, or a legal holiday. (The term "legal holiday" includes all holidays in the District of Columbia and statewide holidays in a particular State in which a claim, report, or return, as the case may be, is required to be filed, or the act is required to be performed.)

Calendar year. The period which begins January 1 and ends on the following December 31.

Case. Two or more bottles, or one or more containers, enclosed in a box or fastened together by some other method.

Chaptalization. The addition of pure sugar to juice before or during fermentation to develop alcohol by fermentation.

Concentrate plant. An establishment qualified under Part 18 of this chapter for the production of volatile fruit-flavor concentrate.

Container. A receptacle larger than four liters, regardless of the material from which it is made, used to store wine or to remove wine from wine premises. (Also see the definition of bulk container).

Director. The Director, Bureau of Alcohol, Tobacco and Firearms, the Department of the Treasury, Washington, D.C.

Director of the service center. A director of an internal revenue service center.

Distilled spirits plant. An establishment qualified under Part 19 of this chapter (excluding alcohol fuel plants) for the production, warehousing, or processing of distilled spirits (including denatured spirits), or the manufacture of articles.

Distilling material. Any fermented or other alcoholic substance capable of, or intended for use in, the original distillation or other original processing of spirits.

District director. A district director of internal revenue.

Effervescent wine. A wine containing more than 0.392 grams of carbon dioxide per 100 milliliters.

Electronic fund transfer (EFT). Any transfer of funds effected by a proprietor's financial institution, either directly or through a correspondent banking relationship, via the Federal Reserve Communications System (FRCS) or Fedwire to the Treasury Account at the Federal Reserve Bank of New York.

Executed under penalties of perjury. Signed with the prescribed declaration under the penalties of perjury as provided on or with respect to the return, claim, form, or other document or, where no form of declaration is prescribed, with the declaration: "I declare under the penalties of perjury that this _____ (insert type of document such as statement, report, certificate, application, claim, or other document), including the documents submitted in support thereof, has been examined by me and, to the best of my knowledge and belief, is true, correct, and complete."

Export or exportation. A severance of goods from the mass of things belonging to the United States with the intention of uniting them to the mass of things belonging to some foreign country and will include shipments to any possession of the United States. For the

purposes of this part, shipments to the Commonwealth of Puerto Rico and to the territories of the Virgin Islands, American Samoa, and Guam will also be treated as exportations.

Fiduciary. A guardian, trustee, executor, receiver, administrator, conservator, or any person acting in any fiduciary capacity for any person.

Financial institution. A bank or other financial institution, whether or not a member of the Federal Reserve System, which has access to the Federal Reserve Communications System (FRCS) or Fedwire. The "FRCS" or "Fedwire" is a communications network that allows Federal Reserve System member financial institutions to effect a transfer of funds for their customers (or other financial institutions) to the Treasury account at the Federal Reserve Bank of New York.

Fold. The ratio of the volume of the fruit must or juice to the volume of the volatile fruit-flavor concentrate produced from the fruit must or juice; for example, one gallon of volatile fruit-flavor concentrate of 100-fold would be the product from 100 gallons of fruit must or juice.

Foreign wine. Wine produced outside the United States.

Fruit must. Any unfermented mixture of juice, pulp, skins, and seeds prepared from fruit, berries, or grapes.

Fruit wine. Wine made from the juice of sound, ripe fruit (including wine made from berries or wine made from less than 100 percent grapes).

Gallon or wine gallon. A United States gallon of liquid measure equivalent to the volume of 231 cubic inches.

Grams per liter. For the purposes of this part, the unit of measure equivalent to the "parts per thousand" unit of measure prescribed in the Internal Revenue Code of 1954, as amended.

Grape wine. Wine made from the juice of sound, ripe grapes.

Heavy bodied blending wine. Wine made from fruit without added sugar, with or without added wine spirits, and conforming to the definition of natural wine in all respects except as to maximum total solids content.

High-proof concentrate. A volatile fruit-flavor concentrate (essence) that has an alcohol content of more than 24 percent by volume and is unfit for beverage use (nonpotable) because of its natural constituents, i.e., without the addition of other substances.

In bond. When used with respect to wine or spirits, "in bond" refers to wine or spirits possessed under bond to secure the payment of the taxes imposed by 26 U.S.C. Chapter 51, and on which such taxes have not been determined. The term includes any wine or spirits on the bonded premises of a bonded winery, bonded wine cellar or distilled spirits plant, or in transit between bonded premises (including in the case of wine, bonded wine premises). Additionally, the term refers to wine withdrawn without payment of tax under 26 U.S.C. 5362 and to spirits withdrawn without payment of tax under 26 U.S.C. 5214 (a)(5) or (a)(13) with respect to which relief from liability has not yet occurred.

Invert sugar syrup. A substantially colorless solution of invert sugar which has been prepared by recognized methods of inversion from pure sugar and contains not less than 60 percent sugar by weight (60 degrees Brix).

Juice. The unfermented juice (concentrated or unconcentrated) of fruit, berries, grapes, and authorized agricultural products exclusive of pulp, skins, or seeds.

Kind. Kind means the class and type of wine prescribed in this part and in 27 CFR Part 4.

Lees. The settlings of wine.

Liter. A metric unit of capacity equal to 1,000 cubic centimeters of alcoholic beverage, and equivalent to 33.814 U.S. fluid ounces.

Liquid sugar. A substantially colorless pure sugar and water solution containing not less than 60 percent pure sugar by weight (60 degrees brix).

Lot. Wine of the same type. When used with reference to a "lot of wine bottled", lot means the same type bottled or packed on the same date into bottles or containers of the same measure on the same bottling line.

Natural wine. The product of the juice of sound, ripe grapes or other sound, ripe fruit (including berries) made with any cellar treatment authorized by Subparts F and L of this part and containing not more than 21 percent by weight (21 degrees Brix) of total solids.

Nonbeverage wine. Wine, or wine products made from wine, rendered unfit for beverage use in accordance with § 24.215.

Own production. When used with reference to wine in a bonded winery, the term means wine produced by fermentation in the same bonded winery, whether or not produced by a predecessor in interest at the bonded winery. The term includes wine produced by fermentation in bonded wineries owned or controlled by the same or affiliated persons or firms when located within the same State.

Packer. A proprietor of wine premises established under the provisions of this part who fills wine into a container.

Person. An individual, trust, estate, partnership, association, company, or corporation. When used in connection with penalties, seizures, and forfeitures, the term includes an officer or employee of a corporation or a member or employee of a partnership, who as an officer, employee or member, is under a duty to perform the act in respect of which the violation occurs.

Proof. The ethyl alcohol content of a liquid at 60 degrees Fahrenheit, stated as twice the percent of ethyl alcohol by volume.

Proof gallon. A United States gallon of liquid at 60 degrees Fahrenheit which contains 50 percent by volume of ethyl alcohol having a specific gravity of 0.7939 at 60 degrees Fahrenheit referred to water at 60 degrees Fahrenheit as unity, or the alcoholic equivalent thereof.

Proprietor. The person qualified under this part to operate a wine premises, and includes the term "winemaker" when the context so requires.

Pure sugar. Pure refined dry sugar, suitable for human consumption, having a dextrose equivalent of not less than 95 percent on a dry basis, and produced from cane, beets, or fruit, or from grain or other sources of starch.

Reconditioning. The conduct of operations, after original bottling or packing, to restore wine to a resalable condition. The term includes the filtration, clarification, stablization, or reformulation of a product, and relabeling or recasing operations.

Region. A Bureau of Alcohol, Tobacco and Firearms region.

Regional director (compliance). The principal regional official responsible for administering regulations in this part.

Same kind of fruit. In the case of grapes, all of the species and varieties of grapes. In the case of fruits other than grapes, this term includes all of the several species and varieties of any given kind; except that this will not preclude a more precise identification of the composition of the product for the purpose of its designation.

Secretary. The Secretary of the Treasury or the Secretary's delegate.

Service center. An internal revenue service center.

Sparkling wine. An effervescent wine charged with carbon dioxide resulting solely from the secondary fermentation of the wine within a bottle or closed container.

Special natural wine. A product produced from a base of natural wine (or heavy bodied blending wine) to which natural flavorings are added, and made pursuant to an approved formula in accordance with Subpart H of this part.

Specially sweetened natural wine. A product made with a base of natural wine and having a total solids content in excess of 17 percent by weight (17 degrees Brix) and an alcoholic content of not more than 14 percent by volume.

Standard wine. Natural wine, specially sweetened natural wine, special natural wine, and agricultural wine, produced in accordance with Subparts F, H, and I of this part.

Still wine. Wine containing not more than 0.392 grams of carbon dioxide per 100 milliliters.

Sweetening. The addition of juice, concetrated juice or sugar to wine after the completion of fermentation and before taxpayment to correct natural sugar deficiencies.

Sugar. Pure sugar, liquid sugar, and invert sugar syrup.

Tax year. The period from July 1 of one calendar year through June 30 of the following year.

Taxpaid wine. Wine on which the tax imposed by law has been determined, regardless of whether the tax has actually been paid or the payment of tax has been deferred.

Taxpaid wine bottling house. The designation given to taxpaid wine premises, established under the provisions of this part, the operations of which are not integrated with the operations of an adjacent or contiguous wine premises.

Taxpaid wine premises. Wine premises established under the provisions of this part on which operations in taxpaid wine are authorized to be conducted.

This chapter. Title 27, Code of Federal Regulations, Chapter I (27 CFR Chapter I).

Total solids. The degrees Brix of unfermented juice or dealcoholized wine.

Treasury Account. The Department of Treasury's General Account at the Federal Reserve Bank of New York.

U.S.C. The United States Code.

United States or U.S. wine. Wine produced on bonded wine premises in the United States.

Volatile fruit-flavor concentrate. Any concentrate (essence) produced by any process which includes evaporations from any fruit mash or juice.

Wine. When used without qualification, the term includes every kind (class and type) of wine, excluding wine containing less than one-half percent of alcohol by volume or more than 24 percent of alcohol by volume, produced from fruit, berries, or other suitable agricultural products. The term includes all imitation, other than standard, or artificial wine and compounds sold as wine.

Wine premises. Premises established under the provisions of this part on which wine operations or other operations are authorized to be conducted.

Wine spirits. Brandy and other distilled spirits authorized under 26 U.S.C. 5373 for use in beverage wine production.

Subpart C—Administrative and Miscellaneous Provisions

Authorities of the Director

§ 24.24 Forms prescribed.

(a) The Director is authorized to prescribe all forms required by this part. All of the information called for in each form will be furnished as indicated by the headings on the form and the instructions on or pertaining to the form and as required by this part.

(b) "Public Use Forms" (ATF Publication 1322.1) is a numerical listing of forms issued or used by the Bureau of Alcohol, Tobacco and Firearms. This publication is available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(c) Requests for forms may be mailed to the ATF Distribution Center, 7943 Angus Court, Springfield, Virginia 22153.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1395, as amended (26 U.S.C. 5367, 5555))

§ 24.21 Modified forms.

(a) *General.* The Director may approve the use of a modified form in lieu of the prescribed form required by this part, when in the judgment of the Director: (1) Good cause has been shown for the use of the modified form and (2) The use of the modified form will not result in a net increase in cost to the Government or hinder the effective administration of this part. Except to adapt tax returns for use with data processing equipment, no proposal for modification of a prescribed form relating to qualification, to the giving of any bond, or to the assessment, payment, or collection of tax will be approved under this section.

(b) *Application.* The proprietor who desires to modify a prescribed form shall submit a written application to the regional director (compliance). The application will state the reasons a modified form is necessary and be accompanied by a copy of the proposed form with typical entries.

(c) *Conditions.* A modified form may not be used until the application has been approved by the Director. Authorization for the use of a modified form is conditioned on compliance with the procedures, conditions, and limitations specified in the approval of the application. The use of a modified form does not relieve the proprietor from any requirement of this part. Authority for use of a modified form may be withdrawn whenever in the judgment of the Director the effective administration of this part is hindered by the continuation of the authority.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1395, as amended (26 U.S.C. 5367, 5555))

§ 24.22 Alternate method or procedure.

(a) *General.* The proprietor, on specific approval of the Director as provided in this section, may use an alternate method or procedure in lieu of a method or procedure specifically prescribed in this part. As used in this section, an alternate method or procedure also includes alternate construction or equipment. No alternate method or procedure relating to the giving of any bond or to the assessment, payment, or collection of tax, will be authorized under this section. The Director may approve an alternate method or procedure, subject to stated conditions, when in the judgment of the Director:

(1) Good cause has been shown for the use of the alternate method or procedure;

(2) The alternate method or procedure is within the purpose of, and consistent with the effect intended by, the specifically prescribed method or procedure, and affords equivalent security to the revenue; and

(3) The alternate method or procedure will not be contrary to any provision of law, will not result in an increase in cost to the Government, and will not hinder the effective adminstration of this part.

(b) *Application.* The proprietor who desires to employ an alternate method or procedure shall submit a written application to the regional director (compliance) for transmittal to the Director. The application will specifically describe the proposed alternate method or procedure, and will set forth the reasons therefor. Alternate methods or procedures will not be employed until the application is approved by the Director.

(c) *Conditions.* The proprietor shall, during the period of authorization for an alternate method or procedure, comply with the terms of the approved application. Authorization for any alternate method or procedure may be withdrawn whenever in the judgment of the regional director (compliance), or the Director, the revenue is jeopardized or the effective administration of this part

is hindered by the continuation of the authorization.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1395, as amended (26 U.S.C. 5556))

Authorities of the Regional Director (Compliance)

§ 24.25 Emergency variations from requirements.

(a) *General.* The regional director (compliance) may approve construction, equipment, and methods of operation other than as specified in this part, when in the judgment of the regional director (compliance) an emergency exists and the proposed variations from the specified requirements are necessary, and the proposed variations:

(1) Will afford the security and protection to the revenue intended by the prescribed specifications;

(2) Will not hinder the effective administration of this part; and

(3) Will not be contrary to any provisions of law.

(b) *Application.* The proprietor who desires to employ an emergency variation from requirements shall contact the area supervisor requesting approval until a written application is acted upon by the regional director (compliance). The application will be submitted within 24 hours of any approval by the area supervisor and describe the proposed variation and set forth the reasons. Where the emergency threatens life or property, the proprietor may take immediate action to correct the situation without prior notification; however, the proprietor shall promptly contact the area supervisor and file with the regional director (compliance) through the area supervisor a report concerning the emergency and the action taken to correct the situation.

(c) *Conditions.* Variations from requirements granted under this section are conditioned on compliance with the procedures, conditions, and limitations set forth in the approved application. A failure to comply in good faith with any procedures, conditions, and limitations will automatically terminate the authority for a variation and the proprietor thereupon shall fully comply with the prescribed requirements of regulations from which the variation was authorized. Authority for any variation may be withdrawn whenever in the judgment of the regional director (compliance) the revenue is jeopardized or the effective administration of this part is hindered by the continuation of the variation.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1395, as amended (26 U.S.C. 5556))

§ 24.26 Authority to approve.

The regional director (compliance) is authorized to approve, except as otherwise provided in this part, all applications, bonds, consents of surety, qualifying documents, claims, and any other documents required by or filed under this part, whether for original establishment, for changes subsequent to establishment, for discontinuance of business, for remission, abatement, credit, or refund of tax, or for any other purpose.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1378, as amended (26 U.S.C. 5351))

§ 24.27 Segregation of operations.

The regional director (compliance) may require the proprietor to segregate operations within any wine premises established under this part, by partitions or otherwise, to the extent deemed necessary to prevent jeopardy to the revenue, to prevent confusion between operations, to prevent substitution with respect to the several methods of producing effervescent wine, and to prevent the commingling of standard wine with other than standard wine.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5365))

§ 24.28 Installation of meters, tanks, and other apparatus.

The regional director (compliance) is authorized to require the proprietor to install meters, tanks, pipes, or any other apparatus for the purpose of protecting the revenue. Any proprietor refusing or neglecting to install a required apparatus will not be permitted to conduct business.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1395, as amended (26 U.S.C. 5552))

§ 24.29 Claims.

The regional director (compliance) may require the proprietor or other person liable for the tax on wine or spirits to file a claim and to submit evidence of loss in any case where wine or spirits are lost or destroyed.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1323, as amended 1381, as amended (26 U.S.C. 5008, 5043, 5370))

§ 24.30 Supervision.

The regional director (compliance) may require that operations on wine premises be supervised by any number of ATF officers necessary for the protection of the revenue or for the enforcement of 26 U.S.C. Chapter 51 and applicable regulations.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1395, as amended (26 U.S.C. 5366, 5553))

§ 24.31 Submission of forms and reports.

The regional director (compliance) may require the proprietor to submit to a designated ATF officer copies of prescribed transaction forms, records, reports, or source records used to prepare records, reports or tax returns.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1396, as amended (26 U.S.C. 5555))

§ 24.32 Records.

The regional director (compliance) may require the proprietor to maintain any record required by this part in a prescribed format or arrangement or otherwise change the method of recordkeeping in any case where the required information is not clearly or accurately reflected.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1395, as amended (26 U.S.C. 5367, 5555))

Authorities of ATF Officers

§ 24.35 Right of entry and examination.

Under 26 U.S.C. 7601, 7602, and 7606, ATF officers have authority to inspect during normal business hours the records, stocks, and wine premises (including any portion designated as a bonded wine warehouse) of the proprietor to determine compliance with all provisions of the internal revenue laws and regulations. In addition, for the purposes prescribed in 27 CFR 70.22, AFT officers may examine financial records, books of account, and any other books, papers, records, and data relevant to an inquiry. ATF officers desiring to make inspections will show an official ATF identification. Any denial or interference with any inspection by the proprietor, or by agents or employees of the proprietor, is a violation of 26 U.S.C. 7342 and may be subject to an appropriate penalty.

(August 16, 1954, Ch. 736, 68A Stat. 872, as amended, 901, as amended, 903, as amended (26 U.S.C. 5367, 7342, 7601, 7602, 7606))

§ 24.36 Instruments and measuring devices.

All instruments and measuring devices required by this part to be furnished by the proprietor for the purpose of testing and measuring wine, spirits, volatile fruit-flavor concentrate, and materials will be maintained by the proprietor in accurate and readily usable condition. The area supervisor may disapprove the use of any equipment or means of measurement found to be unsuitable for the intended purpose, inaccurate or not in accordance with regulations. In this case, the proprietor shall promptly provide

suitable and accurate equipment or measuring devices.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1381, as amended (26 U.S.C. 5357, 5366, 5368, 5552))

§ 24.37 Sample for the United States.

ATF officers are authorized to take samples of wine, spirits, volatile fruit-flavor concentrate, or any other material which may be added to wine products, for analysis, testing, etc., to determine compliance with the provisions of law and regulations.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended, 1382, as amended, 1392 as amended, 1396, as amended (26 U.S.C. 5362, 5373, 5511))

Facilities and Assistance

§ 24.40 Gauging and measuring.

ATF officers may require the proprietor to furnish the necessary facilities and assistance to gauge or measure wine or spirits in any container or to examine any apparatus, equipment, container, or material on wine premises.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1381, as amended, 1395, as amended, 1396, as amended (26 U.S.C. 5357, 5366, 5368, 5555, 5557))

§ 24.41 Office facilities.

The regional director (compliance) may require the proprietor to furnish suitable office facilities for the exclusive use of ATF officers in performing Government duties. The facilities will be subject to approval by the regional director (compliance).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1381, as amended, 1395, as amended (26 U.S.C. 5357, 5366, 5553))

Employer Indentification Number

§ 24.45 Use on returns.

The employer identification number (as defined at 26 CFR 301.7701–12) of the taxpayer who has been assigned a number will be shown on each return filed pursuant to the provisions of this part. Failure of the taxpayer to include the employer identification number on any return filed pursuant to the provisions of this part may result in the assertion and collection of the penalty prescribed in 26 CFR 301.6676–1.

(Pub. L. 87–397, 75 Stat. 828, as amended (26 U.S.C. 6109, 6676))

§ 24.46 Application.

(a) An employer identification number will be assigned pursuant to application on Internal Revenue Service (IRS) Form SS–4 filed by the taxpayer. IRS Form SS–4 may be obtained from the director of the service center or from any district director.

(b) An application on IRS Form SS–4 will be made by the taxpayer who has neither secured nor made application for an employer identification number prior to filing the first return. An application on IRS Form SS–4 will be filed on or before the seventh day after the date on which the first return is filed.

(c) Each taxpayer shall make application for and be assigned only one employer identification number, regardless of the number of places of business for which the taxpayer is required to file a tax return under the provisions of this part.

(Pub. L. 87–397, 75 Stat. 828, as amended (26 U.S.C. 6109))

§ 24.47 Execution of IRS Form SS–4.

(a) *Preparation.* The application on IRS Form SS–4, together with any supplementary statement, will be prepared in accordance with the form instructions and applicable regulations. The application will be filed with the director of the internal revenue service center with which the applicant is required to file a return.

(b) *Signature.* The application will be signed by:

(1) The individual, if the taxpayer is an individual; or,

(2) The president, vice president, other principal officer, or other person authorized to sign, if the taxpayer is a corporation; or,

(3) A responsible and duly authorized member or officer having knowledge of its affairs, if the taxpayer is a partnership or other unincorporated organization; or,

(4) The fiduciary, if the taxpayer is a trust or estate.

(Pub. L. 87–397, 75 Stat. 828, as amended (26 U.S.C. 6109))

Occupational Taxes

§ 24.50 Payment of tax.

Except as provided in §§ 24.51 and 24.52, the proprietor who sells wine shall file a return on Internal Revenue Service (IRS) Form 11, Special Tax Return, and pay occupational tax as a wholesale dealer or retail dealer, in accordance with 27 CFR Part 194.

(August 16, 1954, Ch. 736, 68A Stat. 846, as amended (26 U.S.C. 7011); sec. 201, Pub. L. 85–859, 72 Stat. 1340, as amended, 1343, as amended, 1346, as amended (26 U.S.C. 5111, 5112, 5121, 5122, 5142))

§ 24.51 Exemption from occupational tax.

(a) *General.* The proprietor of a bonded winery or bonded wine cellar will not be required to pay the occupational tax as a wholesale dealer or retail dealer on account of the sale, at the bonded winery or bonded wine cellar, or at the principal business office as designated in writing to the regional director (compliance), of wine or spirits which, at the time of sale, are stored at the bonded winery or bonded wine cellar, or have been removed from the bonded winery or bonded wine cellar to taxpaid wine premises, the operations of which are integrated with the operations of the bonded winery or bonded wine cellar and which is adjacent to or in the immediate vicinity of the bonded winery or bonded wine cellar. The proprietor may not have more than one place of sale, as to each bonded winery or bonded wine cellar, that will be exempt from occupational tax under this section.

(b) *Place of exemption.* Unless the proprietor has claimed the exemption elsewhere, the exemption will be claimed at the bonded winery or bonded wine cellar where the wine or spirits are stored. If exemption from payment of occupational tax is to be claimed for sales at the principal business office rather than for sales at the bonded winery or bonded wine cellar, the proprietor shall, unless stated in the approved application, file a notice in letter form of this intention with the regional director (compliance) of the region in which the bonded winery or bonded wine cellar is located. Where the exemption is claimed for a place other than the bonded wine cellar, the occupational tax will be paid for any sales made at the bonded winery or bonded wine cellar.

(c) *Exception.* Where the proprietor of a bonded winery or bonded wine cellar has not paid occupational tax as a wholesale dealer and consummates sales of wine to another dealer at the purchaser's place of business through a delivery route salesman or otherwise, the proprietor of the bonded winery or bonded wine cellar is required to pay occupational tax as a wholesale dealer at each place the sale is consummated.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1340, as amended (26 U.S.C. 5113))

§ 24.52 Wholesale dealer.

The proprietor who has paid occupational tax as a wholesale dealer for the place at which sales are conducted will not again be required to pay occupational tax as a dealer because of sales of wine to wholesale or retail dealers, or to limited retail dealers, consummated at the purchaser's place of business.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1340, as amended (26 U.S.C. 5113))

§ 24.53 Filing of return.

(a) *Time.* The occupational tax year commences on July 1 of each year and ends on June 30 of the next succeeding year. All persons liable for occupational tax shall file IRS Form 11 and pay the occupational tax on or before July 1 of each tax year. Where business is commenced in any month except July, the tax will be prorated on a monthly basis from the first day of the month in which business was commenced to June 30 following. If the IRS Form 11, with remittance, is not actually delivered on or before July 1, or on or before the day on which business was commenced, the date of the postmark stamped on the cover of a return which is mailed will be the date of filing.

(b) *Place.* IRS Form 11 with remittance will be filed with the director of the internal revenue service center serving the internal revenue district in which the business is located or, in the case of a single return prepared under the provisions of 27 CFR Part 194 to cover liability at two or more locations, with the director of the service center serving the internal revenue district in which the taxpayer's principal place of business (or the principal office of a corporate taxpayer) is located.

(August 16, 1954, Ch. 736, 68A Stat. 846, as amended, 895, as amended (26 U.S.C. 7011, 7502); sec. 201, Pub. L. 85–859, 72 Stat. 1346, as amended, 1347, as amended (26 U.S.C. 5142, 5143))

§ 24.54 Hand-carried returns.

Notwithstanding the provisions of § 24.53, returns on IRS Form 11 for occupational tax which are hand-carried, will be filed with the district director of the internal revenue district in which the taxpayer's place of business is located or, in the case of a single return prepared under the provisions of 27 CFR Part 194 to cover liability at two or more locations, the return will be filed with the district director of the internal revenue district in which the taxpayer's principal place of business (or the principal office of a corporate taxpayer) is located.

(August 16, 1954, Ch. 736, 68A Stat. 752, as amended (26 U.S.C. 6091))

§ 24.55 Special tax stamp.

Upon filing a properly executed return on IRS Form 11, together with a remittance in the full amount due, the taxpayer will be issued an appropriately designated "special (occupational) tax stamp." This special tax stamp will be kept available at the taxpayer's place of business for inspection during normal business hours by ATF officers. If the special tax stamp is not timely received, a cancelled check showing payment of the occupational tax may be kept available for inspection until the special tax stamp is received.

(August 16, 1954, Ch. 736, 68A Stat. 831, as amended (26 U.S.C. 6806); sec. 201, Pub. L. 85–859, 72 Stat. 1346, as amended, 1348, as amended (26 U.S.C. 5142, 5143, 5146))

Assessments

§ 24.60 General.

Where the regional director (compliance) determines by examinatin of records, inventories, or otherwise that the proprietor has incurred liability for the tax on wine, distilled spirits, or occupational tax, and the proprietor does not pay the tax upon notification of the liability, the tax will be assessed.

(August 16, 1954, Ch. 736, 68A Stat. 767, as amended (26 U.S.C. 6201))

§ 24.61 Assessment of tax.

When wine or spirits in bond are lost or destroyed (except wine or spirits on which the tax is not collectible by reason of the provisions of 26 U.S.C. 5008 or 26 U.S.C. 5370, as applicable) and the proprietor or other person liable for the tax on the wine or spirits fails to file a claim as provided in this part or when the claim is denied, the tax will be assessed. In any case where wine is produced, imported, or received otherwise than as authorized by law, or where wine or spirits are removed, possessed, or knowingly used in violation of applicable law, or volatile fruit-flavor concentrate is sold, transported, or used in violation of law, the tax will be assessed.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1314, as amended, 1323, as amended, 1332, as amended, 1335, as amended, 1381, as amended, 1387, as amended, 1392, as amended (26 U.S.C. 5001, 5008, 5043, 5061, 5370, 5391, 5512))

§ 24.62 Notice.

If an investigation or an examination of records discloses that liability for the tax on wine or distilled spirits, or occupational tax has been incurred by the proprietor, the regional director (compliance) will notify the proprietor by letter of the basis and the amount of the proposed assessment in order to afford the proprietor an opportunity to submit a protest, with supporting evidence, within 45 days, or to request a conference with regard to the tax liability. However, if collection of the tax liability may be jeopardized by a delay, the regional director (compliance) may take immediate jeopardy assessment action pursuant to 26 U.S.C. 6861.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1323, as amended, 1381, as amended (26 U.S.C. 5008, 5370, 6861))

Claims

§ 24.65 Claims for wine or spirits lost or destroyed in bond.

(a) *Claim for remission of tax on spirits.* All claims for remission of tax required by this part, relating to the loss or destruction of spirits in bond, will be filed with the regional director (compliance) within 30 days of discovery of the loss. A claim filed under this paragraph will set forth the following information:

(1) The name, registry number, and location of the distilled spirits plant which produced the spirits;

(2) The serial numbers of the containers from which the spirits were lost, the quantity lost from each, and the total quantity of spirits covered by the claim;

(3) The total amount of tax for which claim is filed;

(4) The date of the loss or destruction (or, if not known, the date of discovery);

(5) The nature and cause (if known) of the loss will be stated specifically and in sufficient detail to disclose all material facts and circumstances surrounding the loss;

(6) If lost in transit, the name of the carrier and the points between which shipped; and

(7) If lost by theft, evidence establishing that the loss did not occur as the result of negligence, connivance, collusion, or fraud on the part of the proprietor, owner, consignor, consignee, bailee or carrier, or the agents or employees of any of them.

(b) *Claim for allowance of loss on wine.* A claim for allowance of loss required by this part, relating to the loss or destruction of wine in bond, will be filed with the regional director (compliance). A claim for allowance of loss for wine lost in transit, by fire or other casualty, or any other extraordinary or unusual losses, including a loss by theft, will be filed immediately. Any other claim for allowance of loss will be attached to and submitted with the ATF Form 5120.17 (702), Monthly Report of Wine Cellar Operations, for June or, in the case of discontinuance of the premises or change in proprietorship, to the final monthly report filed. A claim filed under this paragraph will set forth the information required by paragraphs (a)(5) to (a)(7) of this section and, in addition, will set forth the following information:

(1) The original volume of wine which sustained the loss, the tax class, the quantity of wine lost, and the percentage of wine lost;

(2) Where the claim covers losses sustained at a bonded winery or bonded wine cellar during the tax year, the claimant shall state: (i) The quantities of wine on hand at the beginning of the tax year, received in bond, and produced during the tax year; (ii) where the percentage of loss is calculated separately by tax class, the volume of wine by tax class; and (iii) if effervescent wine is produced, the volume of wine produced by fermentation in bottles, by artificial carbonation, and by bulk processing; and

(3) Claims covering losses of wine during transit in bond will show the volume lost from each container, the serial number, if any, and the volume shipped.

(c) *Claim for abatement, credit or refund.* A claim for abatement of an assessment under § 24.61, or credit or refund of tax which has been paid or determined, will be filed with the regional director (compliance) in accordance with the provisions of this paragraph and the provisions of 27 CFR 170 Subpart E. A claim filed under this paragraph with respect to spirits, wine, or volatile fruit-flavor concentrate, will set forth the applicable information required by paragraphs (a), (b), or (a)(5) to (a)(7) of this section. In addition, any claim filed under this paragraph will set forth the following information:

(1) The date of the assessment for which abatement is claimed; and

(2) The name, registry number, and address of the premises where the tax was assessed (or name, address, and title of any other person who was assessed the tax, if the tax was not assessed against the proprietor).

(d) *Indemnification or recompense.* A claim filed under paragraph (a) or (b) of this section will specify whether the claimant has been or will be indemnified or recompensed for the spirits or wine lost and, if so, the amount and nature of indemnity or recompense and the actual value of the spirits or wine, less the tax.

(e) *Supporting documents.* A claim filed under paragraph (a), (b), or (c) of this section will be supported (whenever possible) by affidavits of persons having personal knowledge of the loss or destruction. If filed for tax on wine or spirits lost in transit, the claim will be supported by a copy of the carrier's bill of lading.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1323, as amended, 1381, as amended, 1382, as amended (26 U.S.C. 5008, 5370, 5373))

§ 24.66 Claims on wine returned to bond.

(a) *General.* A claim for credit or refund, or relief from liability, of tax on unmerchantable U.S. wine returned to bonded wine premises will be filed with the regional director (compliance) within six months after the date of the return of the wine to bond. A single claim may not be filed under this section for a quantity on which credit or refund of tax would be in an amount less than $25. This limitation does not apply with respect to any returned wine on which the six month period for filing a claim will expire.

(b) *Filing.* A claim filed under this section will set forth the following information:

(1) The kind, volume, and tax class of the wine;

(2) As to each tax class, the amount of tax previously paid or determined; and

(3) The date the wine was returned to bond.

(c) *Indemnification or recompense.* A claim filed under this section will specify whether the claimant has been or will be indemnified or recompensed for the wine returned to bond and if so, the amount and nature of indemnity or recompense and the actual value of the wine, less the tax.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1332, as amended, 1380, as amended (26 U.S.C. 5044, 5361, 5371))

§ 24.67 Other claims.

The requirements with respect to a claim for:

(a) Remission of tax on wine withdrawn without payment of tax under the provisions of § 24.292, and lost in transit to the port of export, vessel or aircraft, foreign-trade zone, customs bonded warehouse, or manufacturing bonded warehouse, as applicable, are contained in 27 CFR Part 252.

(b) Refund or credit of any tax imposed on wine or other liquors by 26 U.S.C. Chapter 51, Part I, Subchapter A, on the grounds that an amount of tax was assessed or collected erroneously, illegally, without authority, or in any manner wrongfully, or on the grounds that the amount was excessive, are contained in 27 CFR Part 170, Subpart E.

(c) Payment of an amount equal to the internal revenue tax paid or determined and customs duties paid on wine or other liquors previously withdrawn, which are lost, rendered unmarketable, or condemned by a duly authorized official as the result of (1) a major disaster, (2) fire, flood, casualty, or other disaster, or (3) breakage, destruction, or damage (excluding theft) resulting from vandalism or malicious mischief, are found in 27 CFR Part 170 Subpart O.

§ 24.68 Insurance coverage.

The remission, abatement, refund, credit, or other relief, of taxes on wine or spirits provided for under this part will be allowed only to the extent that the claimant does not have insurance coverage to indemnify or recompense for the tax.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1382, as amended (26 U.S.C. 5064, 5372))

§ 24.9 Filing of claims.

(a) *Claims.* All claims filed under this part for abatement or refund of tax will be filed on Internal Revenue Service (IRS) Form 843. All claims filed under this part for credit or remission of tax will be filed on ATF Form 5620.8 (2635). Each claim filed under this part will:

(1) Show the name, address, and title of the claimant;

(2) Be signed by the claimant or the duly authorized agent of the claimant; and

(3) Be executed under the penalties of perjury.

(b) *Supporting documents.* Forms, supporting statements, and any other documents required by this part to be submitted with a claim will be attached to the claim and be considered a part of the claim. The regional director (compliance) may require the submission of additional evidence in support of any claim filed under this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended (26 U.S.C. 5064, 5370))

§ 24.70 Claims for credit of tax.

Claims for credit of tax, as provided in this part, may be filed after determination of the tax whether or not the tax has been paid. Where a claim for credit of tax is filed, the claimant shall, upon receipt of notification of allowance of credit from the regional director (compliance), make an adjusting entry on the next succeeding tax return (or returns) to the extent necessary to exhaust the credit. The claimant shall also make an explanatory statement on each tax return specifically identifying the notification of allowance of credit. The claimant may not anticipate allowance of a credit or make an adjusting entry in a tax return until ATF has acted on the claim.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1332, as amended, 1335, as amended, 1381, as amended, 1395, as amended (26 U.S.C. 5043, 5044, 5061, 5370, 5555))

Tax Exempt Wine

§ 24.75 Wine for personal or family use.

(a) *General.* Any adult may, without payment of tax, produce wine for personal or family use and not for sale.

(b) *Quantity.* The aggregate amount of wine that may be produced exempt from

tax with respect to any household may not exceed:

(1) 200 gallons per calendar year for a household in which two or more adults reside, or

(2) 100 gallons per calendar year if there is only one adult residing in the household.

(c) *Definition of an adult.* For the purposes of this section, an adult is any individual who is 18 years of age or older. However, if the locality in which the household is located has established by law a greater minimum age at which wine may be sold to individuals, the term "adult" will mean an individual who has attained that age.

(d) *Limitation.* This exemption should not in any manner be construed as authorizing the production of wine in violation of applicable State or local law. While this exemption is also applicable to bonded winery individual owners and partnerships, this exemption does not otherwise apply to partnerships, corporations, or associations.

(e) *Removal.* Wine produced under this section may be removed from the premises where made for personal or family use including use at organized affairs, exhibitions or competitions, such as homemaker's contests, tastings or judgings, but may not under any circumstances be sold or offered for sale. The proprietor of a bonded winery shall pay the tax on any wine removed for personal or family use in excess of the limitations provided in this section and shall also enter all quantities removed for personal or family use on ATF Form 5120.17 (702), Monthly Report of Wine Cellar Operations.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1331, as amended (26 U.S.C. 5042))

§ 24.76 Cider.

Cider is the noneffervescent product of the normal alcoholic fermentation of apple juice only, produced without the use of any preservative method or material. When produced at a place other than a bonded winery and sold or offered for sale as cider, and not as wine or as a substitute for wine, cider will not be subject to tax as wine, nor to the provisions of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1331, as amended (26 U.S.C. 5042))

§ 24.77 Experimental wine.

(a) *General.* Any scientific university, college of learning, or institution of scientific research may, without payment of tax, produce, receive, blend, treat, and store wine for experimental or research use, but not for consumption (other than organoleptic tests) or sale, and receive spirits in quantities as may be necessary for the production of wine.

(b) *Qualification.* An institution desiring to conduct experimental wine operations shall make application in letter form to the regional director (compliance). The application will show the name and address of the institution, the nature, extent, and purpose of the operations to be conducted, describe the operations and equipment and the location at which operations will be conducted (including identification of the building or buildings, or portions thereof, to be used), and the security measures to be provided. If spirits are to be used, that fact will be stated together with the estimated annual requirements in proof gallons. A secure place of storage under lock will be provided for spirits and will be described in the application. The applicant shall, when required by the regional director (compliance), furnish as part of the application, additional information as may be necessary to determine whether the application should be approved. Operations may not begin until authorized by the regional director (compliance).

(c) *Procurement of Spirits.* Where the approved application provides for the use of spirits in experimental wine operations, spirits may be procured to the extent stated in the approved qualifying application. However, an application will be filed with the regional director (compliance) and authorization obtained for each spirits procurement.

(d) *Records.* All approved qualifying documents and applications will be retained in the files of the institution and will be exhibited on request to ATF officers. No reports concerning wine or spirits need be filed unless required by the regional director (compliance), but records appropriate to the experiments to be conducted and records documenting the disposition of the wine and spirits will be retained and will be made available for inspection by ATF officers. If spirits are used, the records will show the quantities of spirits received and used each day.

(e) *Discontinuance.* When an institution discontinues experimental wine operations, all remaining wine or spirits will be disposed of either by destruction or shipment to premises authorized to receive wine or spirits. A letter application will be filed with the regional director (compliance) and authorization obtained prior to the destruction or shipment of the wine or spirits. When the authorized destruction or shipment has been completed, a letter notification will be sent to the regional director (compliance).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1331, as amended (26 U.S.C. 5042))

Formulas

§ 24.80 General.

The proprietor shall, before production, obtain approval of the formula and process by which special natural wine, agricultural wine, and other than standard wine (except distilling material and vinegar stock) are to be made. The formula will be prepared and filed with the Director on ATF Form 5120.29 (698-Supplemental), Formula and Process for Wine, in accordance with the instructions on the form. A nonbeverage wine formula will show the intended use of the finished wine or wine product. Any formula approved under this section will remain in effect until revoked, superseded, or voluntarily surrendered. Except for research, development, and testing, no special natural wine, agricultural wine, or, if required to be covered by an approved formula, wine other than standard wine may be produced prior to approval by the Director of a formula covering each ingredient and process (if the process requires approval) used in the production of the product.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended, 1381, as amended, 1386, as amended, 1395, as amended (26 U.S.C. 5361, 5367, 5386, 5387, 5555))

§24.81 Filing of formulas.

The proprietor shall on each formula filed designate all ingredients and, if required, describe each process used to produce the wine. The addition or elimination of ingredients, changes in quantities used, and changes in the process of production, or any other change in an approved formula, will require the filing of a new ATF Form 5120.29 (698-Supplemental). After a change in formula is approved, the original formula will be surrendered to the Director. The proprietor shall serially number each formula, commencing with "1" and continuing thereafter in numerical sequence. Nonbeverage wine formulas will be prefixed with the symbol "NB." The Director or the regional director (compliance) may at any time require the proprietor to file a statement of process in addition to that required by the ATF Form 5120.29 (698-Supplemental) or any other data to determine whether the formula should be approved or the approval continued.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1395, as amended (26 U.S.C. 5367, 5555))

§ 24.82 Samples.

Except for salted wine or salted wine products, the proprietor shall submit under separate cover at the time of filing any nonbeverage wine formula, a 750 ml sample of the base wine used and a 750 ml sample of the finished wine or wine product. The latter sample will be considered representative of the finished product. Any material change in the flavor or other characteristics of the finished product from that of the approved sample will require the filing of a new formula even though the ingredients may be the same. In addition, the Director or the regional director (compliance) may, at any time, require the proprietor to submit samples of any wine or wine product made in accordance with an approved formula or of any materials used in production.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

Essences

§ 24.85 Essences.

Essences or extracts (preparations of natural constituents extracted from fruit, herbs, berries, etc.) may be used in the production of any formula wine except agricultural wine. The essences may be produced on wine premises or elsewhere. Where an essence contains spirits, use of the essence may not increase the volume of the wine more than 10 percent nor its alcohol content more than four percent by volume.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1386, as amended (26 U.S.C. 5386))

§ 24.86 Essences produced on wine premises.

Wine, taxpaid spirits, or spirits withdrawn tax-free may be used in the production of essences on wine premises. The description of the process for producing the essence may be included as part of a formula for the production of a formula wine or a separate formula may be field on ATF Form 5120.29 (698-Supplemental). If a separate formula is filed for the essence, the serial number of the formula by which it is produced will be shown in the ATF Form 5120.29 (698-Supplemental) covering the formula wine in which it is to be used. If an essence is to be made in quantities greater than required for individual lots of formula wine, and stored on the premises, a separate formula will be filed for the essence. Essences made on wine premises with the use of tax-free spirits may only be used in the production of a formula wine and may not be removed from the premises where made. The ATF Form 5120.29 (698-Supplemental) for the production of an essence is filed in the same manner as for the production of formula wine and a sample of the essence produced will be at least four fluid ounces.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1386, as amended (26 U.S.C. 5386))

§ 24.87 Essences made elsewhere.

Before an essence not made on wine premises may be used in the production of formula wine, the manufacturer of the essence shall obtain approval from the Director. The request for approval will identify the essence by name or number and by the name of the manufacturer, and a sample of at least four fluid ounces of the essence will be submitted. However, a request for approval and submission of a sample is not required if the essence is made pursuant to approval of a formula on ATF Form 5530.5 (1678), Formula and Process for Nonbeverage Product. Essences made under an approved formula on ATF Form 5530.5 (1678) will be described on ATF Form 5120.29 (698-Supplemental) by showing the name of the manufacturer, the manufacturer's nonbeverage drawback formula number, and the date of approval by the Director.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1386, as amended (26 U.S.C. 5386))

Conveyance of Wine or Spirits on Wine Premises

§ 24.90 Taxpaid products.

Taxpaid wine or other taxpaid products may be conveyed across bonded wine premises, but may neither be stored nor allowed to remain on bonded wine premises and will be kept separate from untaxpaid wine or spirits. However, upon payment or determination of the tax bulk wine may remain on bonded wine premises until the close of the business day following the day the tax was paid or determined, or the bonded wine premises on which the tank is located may be alternated as taxpaid wine premises.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5365))

§ 24.91 Conveyance of untaxpaid wine or spirits.

Untaxpaid wine or spirits may be conveyed between different portions of the bonded wine premises of the same bonded winery or bonded wine cellar. Untaxpaid wine or spirits may also be conveyed by uninterrupted transportation over any public thoroughfare, or over a private roadway if the owner or lessee of the roadway agrees, in writing, to allow ATF officers access to the roadway to perform their official duty. The conveyance of wine or spirits as authorized in this section is subject to the following conditions:

(a) The untaxpaid wine or spirits are not stored or allowed to remain on any premises other than bonded wine premises;

(b) The untaxpaid wine or spirits are kept completely separate from taxpaid wine or spirits; and

(c) A description of the means and route of conveyance and of the portions of the bonded wine premises between which wine or spirits will be conveyed, as well as a copy of any agreement furnished by the owner or lessee of a private roadway, have been submitted to and approved by the regional director (compliance).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1381, as amended (26 U.S.C. 5357, 5365))

§ 24.92 Products in customs custody.

Products in customs custody may be conveyed across bonded wine premises subject to the following conditions:

(a) The products are not stored or allowed to remain on bonded wine premises; and

(b) The products are kept separate from wine and spirits on bonded wine premises and are moved expeditiously.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1380, as amended, 1381, as amended (26 U.S.C. 5357, 5361, 5365))

Samples

§ 24.95 General.

Wine or spirits may be withdrawn free of tax from a bonded winery or bonded wine cellar for use by or for the account of the proprietor or the agents of the proprietor, for analysis or testing, or organoleptically or otherwise. Wine or spirits may be used for testing purposes, and wine may be used for tasting or sampling on bonded wine premises free of tax.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended, 1382, as amended (26 U.S.C. 5362, 5372, 5373))

§ 24.96 Use off premises.

The proprietor may remove samples of wine or spirits free of tax for analysis or testing purposes.

(a) *Size.* The size of each sample may not be more than one liter for each lot of wine or spirits to be analyzed or tested unless the regional director (compliance) authorizes a larger quantity.

(b) *Statement.* The proprietor shall, prior to removing any samples, obtain a written statement of agreement that records of receipt, use, and disposition for all samples received will be maintained, and that the records and operations with respect to the samples

will be available during normal business hours for inspection by ATF officers.

(c) *Disposition of samples.* Remnants or residues of samples remaining after analysis or testing, and which are not retained as specimens, will be destroyed or returned to bonded wine premises. Free of tax samples or residues may not be consumed or sold.

(d) *Records.* The proprietor shall maintain records of all samples taken for analysis or testing, showing the size of each sample, the kind of wine or spirits, date, and the name and address to where sent. Entries in the records will be made prior to actual removal of the samples from bonded wine premises.

(e) *Labeling of samples.* Each sample taken for analysis or testing will be labeled "Sample for Analysis Only". The label will show the name, address, and registry number of the bonded winery or bonded wine cellar, date, and the kind of wine or spirits.

(f) *Limitation.* The proprietor may not take samples in excess of the amount necessary for the purpose intended. The tax will be collected on any wine or spirits found to have been used or disposed of in a manner not authorized by this section.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended, 1381, as amended, 1382, as amended (26 U.S.C. 5362, 5367, 5368, 5373))

§ 24.97 Use on premises.

(a) *Analysis or testing.* The proprietor may take samples of wine or spirits free of tax for analysis or testing on bonded wine premises. The proprietor shall maintain records showing the size, kind of wine or spirits, date, and disposition of each sample. The label of each sample retained as a laboratory specimen will be marked "Sample for Analysis Only" and will show the kind of wine or spirits.

(b) *Tasting.* The proprietor may take samples of wine free of tax for organoleptic tasting on bonded wine premises. If a room or area is set aside for tasting purposes, a record will be maintained showing the date, quantity and kind of wine transferred to the room or area for tasting.

(c) *Limitation.* The tax will be collected on any wine or spirits withdrawn under this section which are used for purposes other than as authorized or when the quantity of wine or spirits withdrawn under this section exceeds the amount necessary for the purpose intended.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1382, as amended (26 U.S.C. 5372))

Subpart D—Establishment and Operations

§ 24.100 General.

Each person desiring to conduct operations in wine (other than the production of wine free of tax as provided in §§ 24.75 to 24.77) shall, prior to commencing operations, provide wine premises, make application to the regional director (compliance), file bond, and receive permission to operate wine premises as provided in this part. After approval, the wine premises will be designated a bonded winery, bonded wine cellar or taxpaid wine bottling house. As provided in § 24.107, the designation bonded winery will be used if production operations are to be conducted. In addition, wine premises may be used, in accordance with the provisions of this part, for the conduct of certain other operations.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1378, as amended (26 U.S.C. 5351, 5352))

Premises and Operations

§ 24.101 Bonded wine premises.

(a) *General.* A person desiring to conduct operations involving untaxpaid wine, including the use of spirits in wine production, shall file an application and bond with the regional director (compliance). Further, a warehouse company or other person may, upon obtaining the consent of the proprietor and the surety on the bond and upon filing an application with the regional director (compliance) and receiving approval, establish on bonded wine premises a bonded wine warehouse for the storage of wine and allied products for credit purposes.

(b) *Authorized operations.* Except as provided in this part, no operation may be conducted on bonded wine premises other than those authorized. The following operations are authorized:

(1) The receipt, production, blending, cellar treatment, storage, and bottling or packing of untaxpaid wine;

(2) The use of wine spirits in beverage wine production and the use of spirits in nonbeverage wine production;

(3) The receipt, preparation, use, or removal of fruit, concentrated or unconcentrated fruit juice, or other materials to be used in the production or cellar treatment of wine; and

(4) The preparation, storage, or removal of commercial fruit products and by-products (including volatile fruit-flavor concentrate) not taxable as wine.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1378, as amended, 1379 as amended, (26 U.S.C. 5351, 5353, 5361))

§ 24.102 Taxpaid wine premises.

A person desiring to conduct operations in taxpaid wine at a bonded winery or a bonded wine cellar, or a person desiring to conduct taxpaid wine operations at a taxpaid wine bottling house, shall file an application as provided in § 24.105 to establish taxpaid wine premises. The following operations may be conducted on taxpaid wine premises:

(a) The receipt, storage, bottling or packing, and removal of taxpaid wine;

(b) The mixing of taxpaid wine of the same kind, tax class, and country of origin to facilitate handling; and

(c) The treatment of taxpaid wine to preserve, filter, or clarify.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1378, as amended, 1381, as amended (26 U.S.C. 5252, 5363))

§ 24.103 Other operations.

Upon the specific approval of the regional director (compliance), other operations not provided for in this part may be conducted on wine premises. Authority to conduct other operations may be obtained by submitting an application to the regional director (compliance). The application will specifically describe the operation to be conducted and the wine premises and equipment to be used. The regional director (compliance) may make any inquiry necessary to determine whether the conduct of other operations on wine premises would jeopardize the revenue, conflict with wine operations, or be contrary to law. Other operations may not be conducted on wine premises until the application has been approved by the regional director (compliance). Other operations authorized under this section will be conducted in accordance with the conditions, limitations, procedures, and terms stated in the approved application. Authority to conduct other operations may be withdrawn whenever the regional director (compliance) determines the conduct of the other operations on wine premises jeopardizes the revenue, conflicts with wine operations, or is contrary to law.

(Sec. 210, Pub. L. 85–859, 72 Stat. 1380, as amended, 1381, as amended (26 U.S.C. 5361, 5363))

Application

§ 24.105 General.

A person desiring to establish a bonded winery, bonded wine cellar or taxpaid wine bottling house shall file an application on ATF Form 5120.25 (698), Application to Establish and Operate Wine Premises. Approval of ATF Form 5120.25 (698) will constitute

authorization for the proprietor to operate. The premises may not be used for the conduct of operations under this part unless the proprietor has a valid approved application for the operations. The application will be executed under the penalties of perjury and all written statements, affidavits, and any document incorporated by reference will be considered a part of the application. In any instance where a bond is required to be given or a permit obtained to engage in an operation, the currently approved application will not be valid with respect to that operation if the bond or permit is no longer in effect. In this case, the proprietor shall again file an application and obtain approval before engaging in operations at the wine premises. A new application is not required when a strengthening bond is filed pursuant to § 24.153 or a new bond or superseding bond is filed pursuant to § 24.154. The regional director (compliance) may require the filing of a new or an amended application in any instance where the currently approved application is inadequate or incorrect in any respect. Within 60 days after receipt of a notice, the proprietor shall file the application.

(August 16, 1954, Ch. 736, 68A Stat. 749, as amended (26 U.S.C. 6065); sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1392, as amended (26 U.S.C. 5356, 5511))

§ 24.106 Basic permit requirements.

Any person intending to engage in the business of producing or blending wine or purchasing wine for resale at wholesale is required under the Federal Alcohol Administration Act (49 Stat. 978; U.S.C. 203) to obtain a basic permit. A State, a political subdivision of a State, or officers or employees of a State or political subdivision acting in their official capacity are exempted from this requirement. The issuance of a basic permit under the Act is governed by regulations in 27 CFR Part 1. Where a basic permit is required to engage in an operation, an application for a basic permit will be filed with the regional director (compliance) at the time of filing an original or amended application on ATF Form 5120.25 (698). Operations requiring a basic permit may not be conducted until the basic permit application is approved. No Wine Producer's and Blender's Basic Basic Permit or Wine Blender's Permit is required for a bonded wine cellar established only for the purpose of storing untaxpaid wine even though an approved application, ATF Form 5120.25 (698), and bond are required.

(Sec. 210, Pub. L. 85–859, 72 Stat. 1378, as amended (26 U.S.C. 5351))

§ 24.107 Designation as a bonded winery.

Bonded wine premises which will be used for the production of wine or for production processes involving the use of wine will be designated a bonded winery unless the proprietor applies for a bonded wine cellar designation. Prior to engaging in wine production operations the proprietor will obtain the basic permit required by the Federal Alcohol Administration Act. If the proprietor of a bonded wine premises designated as a bonded winery does not engage in wine production operations, the regional director (compliance) may change the designation of the premises from bonded winery to bonded wine cellar.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1378, as amended (26 U.S.C. 5351))

§ 24.108 Bonded wine warehouse application.

A warehouse company or other person desiring to establish a bonded wine warehouse on bonded wine premises for storing wine or allied products for credit purposes shall file an application, in letter form, with the regional director (compliance). The name and address of the applicant and of the bonded winery or bonded wine cellar, and the approximate area and storage capacity (in gallons) of the bonded wine warehouse, will be stated in the application. The application will be accompanied by a signed statement from the proprietor of the bonded winery or bonded wine cellar requesting the establishment of the warehouse, and the consent of the surety of the bond for the bonded winery or bonded wine cellar.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5353))

§ 24.109 Data for application.

The ATF Form 5120.25 (698) is prepared in accordance with the instructions on the form and will include the following, as applicable:

(a) Serial number;

(b) Name and principal business address of the applicant and the address of the wine premises if different from the business address;

(c) Statement of the type of business organization and of each person having an interest in the business, supported by the items of information listed in § 24.110;

(d) Indicate whether the application is for the purpose of establishing a bonded winery, bonded wine cellar, or taxpaid wine bottling house. Also, indicate if taxpaid wine premises are to be established in the case an application for a bonded winery or bonded wine cellar;

(e) List of the offices, the incumbents of which are authorized by the articles of incorporation or the board of directors to act on behalf of the proprietor or to sign the applicant's name;

(f) Description of the premises (see § 24.111);

(g) List of equipment (see § 24.112);

(h) Trade names (see § 24.113);

(i) Description of spirits operations;

(j) With respect to wine premises for which the application relates, a list of the applicant's basic permits and bonds (including those filed with the application) showing the name of the surety for each bond;

(k) Description of volatile fruit-flavor concentrate operations (see § 24.114); and

(l) If other operations not specifically authorized by this part are to be conducted on wine premises, a description of the operations, a list of the premises and any major equipment to be used, and a statement as to the relationship, if any, of the operation to wine operations on wine premises.

If any of the information required by paragraph (c) of this section is on file with the regional director (compliance) of any ATF region in connection with any other premises operated by the applicant, that information, if accurate and complete, may be incorporated by reference and made a part of the application. In this case, the name, address, and if any, registry number of the premises where the information is filed will be stated in the application. The applicant shall, when required by the regional director (compliance), furnish as part of the application, additional information as may be necessary to determine whether the application should be approved.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1392, as amended (26 U.S.C. 5356, 5511))

§ 24.110 Organizational documents.

The supporting information required by paragraph (c) of § 24.109, includes, as applicable, copies of:

(a) *Corporate documents.* (1) Corporate charter or a certificate of corporate existence or incorporation.

(2) List of the directors and officer, showing their names and addresses.

(3) Certified extracts or digests of minutes of meetings of the board of directors, authorizing certain individuals to sign for the corporation.

(4) Statement showing the number of shares of each class of stock or other evidence of ownership, authorized and

outstanding, and the voting rights of the respective owners or holders of stock.

(b) *Articles of partnership.* True copies of the articles of partnership, if any, and of the certificate of partnership or association where required to be filed by any State, county, or municipality.

(c) *Statement of interest.* (1) Names and addresses of the 10 persons having the largest ownership or other interest in each of the classes of stock in the corporation, or other legal entity, and the nature and amount of the stockholding or other interest of each, whether the interest appears in the name of the interested party or in the name of another party. If a corporation is wholly-owned or controlled by another corporation, those persons of the parent corporation who meet the above standards are considered to be the persons interested in the business of the subsidiary, and the names thereof need to be furnished only upon the request of the regional director (compliance).

(2) In the case of an individual owner or partnership, the name and address of each person interested in the wine premises, whether the interest appears in the name of the interested party or in the name of another for that person.

(d) *Availability of additional corporate documents.* The originals of documents required to be submitted under this section and additional documents which may be required by the regional director (compliance) such as articles of incorporation, bylaws, and any certificate issued by a State authorizing operations will be made available to any ATF officer upon request.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

§ 24.111 Description of premises.

The application will include a description of each tract of land comprising wine premises. The description will be by directions and distances, in feet and inches (or hundredths of feet), with sufficient particularity to enable ready determination of the bounds of the wine premises. When required by the regional director (compliance), a diagram of the wine premises, drawn to scale, will be furnished. The description will clearly indicate any area of the wine premises to be used as bonded wine premises, used as taxpaid wine premises, or alternated for use as bonded wine premises and taxpaid wine premises. The means employed to afford security and protect the revenue will be described. If required by the regional director (compliance) to segregate operations within the premises, the manner by which the operations are segregated will be described. Each building on wine premises will be described as to size, construction, and use. Buildings on wine premises which will not be used for wine operations will be described only as to size and use. If the wine premises consist of a part of a building, the rooms or floors will be separately described. The activities conducted in the adjoining portions of the building and the means of ingress and egress from the wine premises will be described.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1381, as amended (26 U.S.C. 5356, 5357, 5365))

§ 24.112 Description of equipment.

The following items of equipment, if on wine premises, will be described in the application:

(a) The approximate number and total capacity of tanks and other bulk containers of 100 gallons or more in volume used in the production, storage, cellar treatment, bottling or packing of wine, and the number and total volume of tanks used to measure or gauge wine and spirits. A statement of certification of accurate calibration will be included for any tank or other bulk container that will be used for taxpayment of wine or spirits, the storage of spirits, and the addition of spirits to wine. (A list of tanks and other bulk containers by serial number, designated use or uses, capacity, and method of measurement will be maintained by the proprietor at the wine premises);

(b) The total number of barrels or other readily movable containers used for the production or storage of wine of less than 100 gallons in volume;

(c) The number and approximate capacities of any crushers and presses;

(d) Description of any laboratory facility and a listing of any wine or spirits tests which will be done on wine premises; and

(e) Stills used in the production of volatile fruit-flavor concentrate (serial number and capacity). The capacity will be stated as the maximum quantity in wine gallons of volatile fruit-flavor concentrate capable of being produced in 24 hours.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended, 1379, as amended, 1392, as amended (26 U.S.C. 5179, 5356, 5511))

§ 24.113 Trade names.

Except as provided in this section, the applicant shall list on the application each trade name to be used in connection with operations on wine premises. If State or local law requires registration of a trade name, the applicant shall certify that each trade name listed on the application is so registered. Where operations conducted on wine premises are required to be covered by a basic permit under the Federal Alcohol Administration Act (49 Stat. 978; 27 U.S.C. 203), the regulations issued in 27 CFR Part 1 govern the approval and use of a trade name in connection with those operations. If a trade name is approved for use under the labeling provisions of the Act (49 Stat. 981; 27 U.S.C. 205), the applicant may use the trade name in connection with any other operation conducted on wine premises without listing the trade name on the application. Operations under a trade name may not be conducted prior to approval of the application or issuance of a basic permit covering the use of the name.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

§ 24.114 Description of volatile fruit-flavor concentrate operations.

Each applicant intending to produce volatile fruit-flavor concentrate shall include on the ATF Form 5120.25 (698) application a step-by-step description of the production procedure to be employed. The description will commence with the obtaining of juice from the fruit and continue through each step of the process to removal of volatile fruit-flavor concentrate from the system. If volatile fruit-flavor concentrate containing more than 24 percent alcohol (high-proof concentrates (essences)) is to be produced, indicate any step in the production procedure at which any spirits may be fit for beverage purposes. The maximum quantity in gallons of fruit most used and volatile fruit-flavor concentrate produced in 24 hours, the maximum and minimum fold, and the maximum percent of alcohol in the volatile fruit-flavor concentrate will be stated for each kind of fruit used.

(Sec. 210, Pub. L. 85–859, 72 Stat. 1379, as amended, 1380, as amended, 1392, as amended (26 U.S.C. 5356, 5361, 5511))

§ 24.115 Registry of stills.

Any still intended for use in the production of volatile fruit-flavor concentrate will be set up on bonded wine premises. Each still is subject to the provisions of Subpart C of Part 170 of this chapter and will be registered with the regional director (compliance). The listing of a still in the application, and the approval of the application, will, as provided in 27 CFR 170.55, constitute registration with the regional director (compliance).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1355, as amended, 1379, as amended, 1392, as amended (26 U.S.C. 5179, 5356, 5511))

§ 24.116 Registry number.

Upon approval of the application, the regional director (compliance) will assign a registry number to the bonded winery, bonded wine cellar, or taxpaid wine bottling house. The registry number will be used in all correspondence and on all documents filed subsequently in connection with the operation of the premises and will be shown where required on labels and markings of containers or cases filled at the wine premises.

§ 24.117 Powers of attorney.

The proprietor shall file with the regional director (compliance) ATF Form 5000.8 (1534), Power of Attorney, for each person authorized to sign or to act on behalf of the proprietor as an attorney-in-fact. A power of Attorney is not required for any person whose authority has been furnished in the application. The ATF Form 5000.8 (1534) will be prepared in accordance with the instructions on the form. If not limited in duration, the power of attorney will continue in effect until written notice of revocation is received by the regional director or operations are terminated.

§ 24.118 Maintenance of application file.

(a) The proprietor shall maintain an application file in looseleaf form in complete and current condition, readily available at the wine premises for inspection by ATF officers. The application file will be divided into three sections as follows: (1) A section consisting of the latest approved application and the current pages with the information required by paragraphs (e) through (l) of § 24.109; (2) a section consisting of the current pages with the information and documents or an incorporation by reference as required by paragraph (c) of § 24.109; and (3) a section consisting of the current pages with the additional information and/or documents the regional director (compliance) has requested.

(b) The proprietor shall file an amended application covering any change in, or addition to, items of information currently on file as provided in § 24.120.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5356, 5367))

Changes Subsequent to Original Establishment

§ 24.120 Amended application.

Where there is a change in any of the information included in the current approved application, the proprietor shall, within 30 days of the change (except as otherwise provided in this part), submit an amended application to the regional director (compliance) and set forth the information necessary to make the application file accurate and current. Where the change affects only pages or parts of pages of the current application, as many complete pages as will enable the replacement of the pages affected and maintenance of the file as provided in § 24.118 will be submitted.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

§ 24.121 Changes affecting permits.

The proprietor shall follow the provisions of 27 CFR Part 1 to effect any change pertaining to a permit issued under the Federal Alcohol Administration Act.

(49 Stat. 978; 27 U.S.C. 203)

§ 24.122 Change in name of proprietor or trade name.

Where there is to be a change in the name of the business, the proprietor shall file an amended application and, if a basic permit has been issued under the Federal Alcohol Administration Act (49 Stat. 978; 27 U.S.C. 203), an application for amendment of the basic permit. Where there is a change in or addition of a trade name, the proprietor shall file an amended application or, if a basic permit has been issued under the Federal Alcohol Administration Act (49 Stat. 978; 27 U.S.C. 203), an application for amendment of the basic permit. In either case, if the proprietor has filed bond, a new bond or consent of surety will not be required. Operations under the new name or trade name may not be conducted before approval of the amended application and/or issuance of an amended permit.

(Sec. 201, Pub. L. 85–859 72 Stat. 1379, as amended (26 U.S.C. 5356))

§ 24.123 Change in stockholders.

If there is a change in the list of stockholders furnished under the provisions of § 24.110(c)(1), the proprietor may, in lieu of submission within 30 days of the change under the provisions of § 24.120, submit a new list of stockholders annually on May 1, or any other approved date, to the regional director (compliance) which has on file the list of stockholders, provided the sale or transfer of capital stock does not result in a change in the control or management of the business.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

§ 24.124 Change in corporate officers.

Where there is any change in the list of corporate officers furnished under the provisions of § 24.110(a)(2), the proprietor shall submit, within 30 days of the change, an amended application supported by a new list of corporate officers and a statement of the changes reflected in the new list. Where the proprietor has shown that certain corporate officers listed on the original application have no responsibilities in connection with the operations covered by the application, the regional director (compliance) may waive the requirement for submitting an amended application to cover a change in those corporate officers.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

§ 24.125 Change in proprietorship.

(a) *General.* If there is a change in the proprietorship of wine premises qualified to operate under this part, the outgoing proprietor shall comply with the requirements of § 24.140, and the successor shall, before commencing operations, apply for and obtain any required permits, file any required bonds, and file an application for and receive permission to operate in the same manner as a person qualifying a new wine premises; however, the successor may, in the manner provided in § 24.127, adopt the approved formulas of the outgoing proprietor. Wine, spirits, and winemaking materials may be transferred from an outgoing proprietor to a successor in the manner provided in § 24.145.

(b) *Fiduciary.* A successor to the proprietorship of wine premises who is an administrator, executor, receiver, trustee, assignee, or other fiduciary shall, except as otherwise provided in this section, comply with the provisions of paragraph (a) of this section. However, in lieu of filing a new bond, if a bond is required, the fiduciary may furnish a consent of surety extending the terms of any bonds of the predecessor, and any pertinent information contained in the predecessor's application may be incorporated by reference. In addition, the fiduciary shall furnish a certified copy of the order of the court or other pertinent document showing appointment as such fiduciary. The effective date of the qualifying documents filed by a fiduciary will be the effective date of the court order, or the date specified for the fiduciary to assume control. If the fiduciary was not appointed by a court, the date of assuming control will coincide with the effective date of the qualifying documents filed by the fiduciary.

(c) *Exception.* A fiduciary intending to liquidate the business conducted on wine premises, i.e., disposition of any wine and spirits on hand, including use of any cellar treatment necessary to put the wine in merchantable condition,

who does not intend to produce wine, or use spirits, or receive wine in bond may be exempted from qualifying as the proprietor of the wine premises upon filing with the regional director (compliance) a statement to that effect, a copy of a foreclosure action, or a copy of the court order directing the liquidation of the business, and if the wine premises is covered by bond, a consent of surety wherein the surety and the fiduciary agrees to remain liable on the bond.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

§ 24.126 Change in proprietorship involving a bonded wine warehouse.

Where a bonded wine warehouse has been established on wine premises and it is desired to continue the operation of the bonded wine warehouse subsequent to a change in the proprietorship of the bonded winery or bonded wine cellar, the proprietor of the bonded wine warehouse shall file a letter application, accompanied by an affirming statement from the new proprietor of the bonded winery or bonded wine cellar, requesting the continuation of the bonded wine warehouse and also file evidence of sufficient bond coverage.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5353))

§ 24.127 Adoption of formulas.

The adoption of approved formulas by a successor proprietor will be in the form of an application, filed with the Director. The application will list the formulas for adoption by formula number, name of product, and date of approval. The application will clearly show that the outgoing proprietor has authorized the successor proprietor's use of the approved formulas.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

§ 24.128 Continuing partnerships.

If, under the laws of the particular State, the partnership is not terminated upon the death or insolvency of a partner but continues until the dissolution of the partnership is completed, and the surviving partner has the exclusive right to the control and possession of the partnership assets for the purpose of liquidation and settlement, the surviving partner may continue to operate the wine premises under the prior qualification of the partnership, provided a consent of surety is filed wherein the surety and the surviving partner agree to remain liable on any bond covering the bonded wine premises. A surviving partner who acquires the business on completion of the dissolution of the partnership shall qualify from the date of acquisition, as provided in § 24.125(a). The rule set forth in this section will also apply where there is more than one surviving partner.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

§ 24.129 Change in location.

Where there is a change in the location of wine premises, the proprietor shall file an amended application and an application for amendment of the basic permit, if any, and if bond has been filed, either a new bond or a consent of surety. Operation of wine premises may not be commenced at the new location prior to approval of the amended application and issuance of any amended permit.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

§ 24.130 Change in volatile fruit-flavor concentrate operations.

If the proprietor desires to make any change in the process employed to produce volatile fruit-flavor concentrate and the change affects the accuracy of the description of process included in the application, the proprietor shall file an amended application to include the amended or new process. The new or changed process may not be used prior to approval of the amended application.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1392, as amended (26 U.S.C. 5356, 5511))

§ 24.131 Change in construction and use of buildings and equipment.

Where a material change is to be made to buildings or major equipment located on wine premises, or in the use of any portion of the wine premises, which affects the accuracy of the application, the proprietor shall, before making the change, submit a letterhead application to the regional director (compliance) through the area supervisor. The letterhead application will describe the proposed change in detail. Upon approval of the application, the proprietor may effect the proposed change. The proprietor shall include the change covered by the letterhead application in the next amended ATF Form 5120.25 (698) required to be filed.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5356))

Alternation

§ 24.135 Wine premises alternation.

(a) *General.* The proprietor of a bonded winery or bonded wine cellar may alternate all or a portion of wine premises for use as bonded wine premises of use as taxpaid wine premises. The proprietor may also alternate the use of adjacent or contiguous premises qualified under 26 U.S.C. Chapter 51 (distilled spirits plant, brewery, etc.) for use as wine premises or *vice versa.*

(b) *Qualifying documents.* Where the proprietor desires to alternate wine premises as bonded wine premises, or taxpaid wine premises, or other premises qualified under 26 U.S.C. Chapter 51, the following qualifying documents will be filed with the regional director (compliance):

(1) A statement on the application ATF Form 5120.25 (698) that an alternation of wine premises will occur;

(2) Evidence of existing bond, consent of surety, or a new bond covering the alternation;

(3) A description of how taxpaid wine or spirits, or untaxpaid wine or spirits will be identified and segregated; and

(4) Any other document or additional information the regional director (compliance) may require.

(c) *Alternation.* After the necessary qualifying documents have been approved by the regional director (compliance), the proprietor may alternate wine premises as described in the application. Any portion of wine premises on which taxpaid wine is located will be considered taxpaid wine premises and any portion of the premises on which wine not identified as taxpaid is located will be considered bonded wine premises. The proprietor shall, prior to the initial alternation of the premises, identify by portable signs or tags, or by any other method or manner satisfactory to the regional director (compliance), either all taxpaid wine on taxpaid wine premises or all untaxpaid wine on bonded wine premises.

(d) *Segregation.* The proprietor shall keep untaxpaid wine or spirits physically separated from taxpaid wine or spirits and on the designated premises. This separation will be by use of tanks, rooms, buildings, partitions, pallet stacks, or complete physical separation, or by any other method or manner which will clearly and readily distinguish untaxpaid wine or spirits from taxpaid wine or spirits and is satisfactory to the regional director (compliance). Where necessary for the protection of the revenue or enforcement of 26 U.S.C. Chapter 51, the regional director (compliance) may require that the portions of wine premises alternated under this section be separated by partitions or otherwise.

(e) *Conditions.* Authority for the alternation of bonded wine premises, taxpaid wine premises, or other

premises qualified under 26 U.S.C. Chapter 51 is conditioned on compliance by the proprietor with the provisions of this section. Failure to comply in good faith with these provisions will automatically terminate this authority. Authority for the alternation of bonded wine premises, taxpaid wine premises, or other premises qualified under 26 U.S.C. Chapter 51 may be withdrawn whenever in the judgment of the regional director (compliance) the revenue is jeopardized or the effective administration of this part is hindered by the continuation of the authorization.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended, 1380, as amended, 1381, as amended (26 U.S.C. 5356, 5357, 5361, 5363, 5365, 5367))

§ 24.136 Procedure for alternating proprietors.

(a) *General.* Wine premises, or parts thereof, may be operated alternately by proprietor who have each filed and received approval of the necessary applications and bonds and have qualified under the provisions of this part. Where operations by alternating proprietor are limited to parts of the wine premises, the application will describe areas, buildings, floors, or rooms which will be alternated and will be accompanied by a diagram delineating the parts of the wine premises to be alternated. A separate diagram will be submitted to depict each arrangement under which the wine premises will be operated. Once the qualifying documents have been approved, and operations initiated, the wine premises, or parts thereof, may be alternated. Any transfer of wine, spirits, or other accountable materials from one proprietor to the other proprietor will be indicated in the records and reports of each proprietor. Operation of a bonded winery engaged in the production of wine by an alternate proprietor will be at least one calendar day in length.

(b) *Alternation.* All operations in any area, building, floor, or room to be alternated will be completely finished and all wine, spirits, and other accountable materials will be removed from the alternated wine premises or transferred to the incoming proprietor. However, wine, spirits, and other accountable materials may be retained on wine premises to be alternated, if in locked tanks, the keys to which are in the custody of the outgoing proprietor.

(c) *Bonds.* The outgoing proprietor who has filed bond and intends to resume operation of the alternated areas, buildings, floors, or rooms following suspension of operations by an alternating proprietor shall execute a consent of surety to continue in effect all bonds. Where wine, spirits, or other accountable materials subject to tax under 26 U.S.C. Chapter 51 are to be retained in tanks on the wine premises to be alternated, the outgoing proprietor shall also execute a consent of surety to continue the liability of all bonds for the tax on the materials, notwithstanding the change in proprietorship.

(d) *Records.* Each proprietor shall maintain separate records and submit a separate ATF Form 5120.17 (702), Monthly Report of Bonded Wine Cellar Operations. All transfers of wine, spirits, and other accountable materials will be reflected in the records of each proprietor. Each proprietor shall maintain a record showing the name and registry number of the incoming or outgoing proprietor, the effective date and hour of alternation, and the quantity in gallons and the percent alcohol by volume or proof of any wine, spirits, or other accountable materials transferred or received.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1378, as amended 1379, as amended, 1380, as amended, 1381, as amended, 1382, as amended (26 U.S.C. 5351, 5352, 5354, 5356, 5361, 5362, 5363, 5367, 5373))

§ 24.137 Alternate use of the wine premises for customs purposes.

(a) *General.* The wine premises may be alternated to be used temporarily by customs officers, under applicable customs laws and regulations, for the purpose of measuring, gauging, and bottling or packing wine. The use of the portion of the wine premises alternated for customs use is subject to the approval of the district director of customs. When it is necessary to convey wine in customs custody across bonded wine premises, the proprietor shall comply with the provisions of § 24.86.

(b) *Qualifying documents.* Where the proprietor desires to alternate a portion of wine premises for customs use, the following qualifying documents will be filed with the regional director (compliance):

(1) ATF Form 5120.25 (698) to cover the alternation;

(2) A diagram clearly depicting any area, building, floor, room or major equipment in use during the alternation; and

(3) Any other documents or additional information the regional director (compliance) may require.

(c) *Alternation.* After approval of the qualifying documents by the regional director (compliance), the proprietor may alternate the wine premises. Portions of the wine premises to be excluded by curtailment or included by extension may not be used for purposes other than those authorized. Prior to the effective date and hour of the alternation, the proprietor shall remove all wine and spirits from the portion of the wine premises to be alternated for customs purposes.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended, 1380, as amended, 1381, as amended (26 U.S.C. 5356, 5357, 5361, 5365, 5367))

Permanent Discontinuance of Operations

§ 24.140 Notice.

(a) *General.* Where all operations at the wine premises are to be permanently discontinued, the proprietor shall file with the regional director (compliance) a notice in letter form to cover the discontinuance. The proprietor shall state in the notice the date on which operations will be discontinued and, if the wine premises are to be transferred to a successor proprietor, the name of the successor proprietor. Any basic permit issued to the proprietor under the Federal Alcohol Administration Act (49 Stat. 978; 27 U.S.C. 203) will be submitted to the regional director (compliance) with a written request for cancellation.

(b) *Bonded wine premises.* The proprietor shall certify in the notice, as applicable, that (1) all wine, spirits, or volatile fruit-flavor concentrate have been lawfully removed from bonded wine premises, destroyed, or transferred to a successor as of the effective date of discontinuance, (2) no wine, spirits, or volatile fruit-flavor concentrate are in transit to bonded wine premises, and (3) all approved applications covering the transfer of spirits to bonded wine premises have been returned to the regional director (compliance). The proprietor shall submit a report marked "Final" on the ATF Form 5120.17 (702), Monthly Report of Wine Cellar Operations. Any wine, spirits, or volatile fruit-flavor concentrate transferred to a successor will be identified as "Transferred to successor" on the report and identified as "Received from predecessor" on the initial report filed by the successor.

(c) *Taxpaid wine premises.* The proprietor shall certify in the notice that all domestic and foreign taxpaid wine on hand has been disposed of, or if not yet disposed of, the manner of disposition and the time period in which the disposition will occur. The proprietor shall include domestic taxpaid wine on the ATF Form 5120.17 (702) report marked "Final." Any domestic taxpaid wine transferred to a successor will be identified as "Transferred to successor" on the report

and identified as "Received from predecessor" on the initial report filed by the successor.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

§ 24.141 Bonded wine warehouse.

Where all operations at a bonded wine warehouse are to be permanently discontinued, the warehouse proprietor shall file with the regional director (compliance) a notice in letter form to cover the discontinuance. The warehouse proprietor shall state in the notice the name, registry number, and address of the bonded wine cellar on which the warehouse facilities are located and the date on which operations of the bonded wine warehouse will be discontinued.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5353))

Bonds and Consents of Surety

§ 24.145 General requirements.

Each person required to file a bond or consent of surety under this part shall prepare and execute the bond or consent of surety on the form prescribed in accordance with this part and the instructions printed on the form, and shall submit the form to the regional director (compliance). A person may not commence or continue any business or operation relating to wine until all bonds and consents of surety required under this part with respect to the business or operation have been approved by the regional director (compliance).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1394, as amended (26 U.S.C. 5551))

§ 24.146 Bonds.

(a) *Wine bond.* The proprietor shall give bond on ATF Form 5120.36(700), Wine Bond, to cover the liability for excise taxes imposed by the Internal Revenue Code of 1954, on wines produced or received by the proprietor. This includes liability for special taxes and penalties and interest. The bond will apply to wine, spirits, and volatile fruit-flavor concentrate, or other commodities subject to tax under 26 U.S.C. Chapter 51, in transit to or on bonded wine premises, and to the operations of the bonded winery or bonded wine cellar, whether the transaction or operation on which the proprietor's liability is based occurred on or off the proprietor's premises. The bond will provide that the proprietor shall faithfully comply with all provisions of law and regulation relating to activities covered by the bond. This bond has a tax obligation limit of $500 for wine removed from bonded wine premises on which the tax has not been paid.

(b) *Tax deferral bond.* Where the proprietor removes wine from bonded wine premises for consumption or sale, after determination and before payment of tax, and the tax unpaid at any one time amounts to more than $500, the proprietor shall, in addition to any other bond required by this part, furnish a tax deferral bond on ATF Form 5120.36(700), Wine Bond, to ensure payment of the tax on the wine. The Tax deferral bond and the Wine bond may be submitted on the same ATF Form 5120.36(700).

(c) *Wine vinegar plant bond.* The proprietor of a wine vinegar plant who withdraws wine from a bonded winery or bonded wine cellar without payment of tax for use in the manufacture of vinegar shall file bond on ATF Form 5510.2(1676), Bond Covering Removal to and Use of Wine at Vinegar Plant, to ensure the payment of the tax on the wine.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1380, as amended (26 U.S.C. 5354, 5362))

§ 24.147 Operations bond or unit bond.

Notwithstanding the provisions of § 24.146, each person intending to commence or to continue business as the proprietor of a bonded winery or bonded wine cellar with an adjacent or contiguous distilled spirits plant qualified under 27 CFR Part 19 for the production of distilled spirits shall, in lieu of a winery bond and the bonds required under the provisions of 26 U.S.C. 5173, as amended, give an operations bond or unit bond in accordance with the applicable provisions of 27 CFR Part 19.

(Sec. 805(c), Pub. L. 96–39, 93 Stat. 276 (26 U.S.C. 5173))

§ 24.148 Penal sums of bonds.

The penal sums of bonds prescribed in this part are as follows:

Bond	Basis	Penal sum minimum/ maximum
(a) Wine Bond, ATF Form 5120.36(700)	(1) Not less than the tax on all wine or spirits possessed, in transit, or unaccounted for at any one time.	$1,000/$50,000
	(2) Where the liability in (a)(1) of this section exceeds $250,000 ------/.	$100,000
	(3) Where the unpaid tax amounts to more than $500, not less than the amount of tax which, at any one time, has been determined but not paid.	$500/$250,000
(b) Wine vinegar plant bond, ATF Form 5510.2(1676) [1].	Not less than the tax on all wine on hand, in transit, or unaccounted for at any one time.	$500/------

[1] The proprietor of a bonded winery or bonded wine cellar who operates an adjacent or contiguous wine vinegar plant with a Wine Bond which does not cover the operation may file a consent of surety to extend the terms of the Wine Bond in lieu of filing a wine vinegar plant bond.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1380, as amended (26 U.S.C. 5354, 5362))

§ 24.149 Corporate surety.

(a) Surety bonds required by this part may be obtained from corporate sureties which hold certificates of authority from and are subject to the limitations prescribed by the Secretary as set forth in the current revision of Treasury Department Circular No. 570 (Companies Holding Certificates of Authority as Acceptable Sureties on Federal bonds and as Acceptable Reinsuring Companies).

(b) Treasury Department Circular No. 570 is published in the **Federal Register** yearly on the first working day in July. As revisions of the circular occur, the revisions are published in the **Federal Register**. Copies may be obtained from the Audit Staff, Financial Management Service, Department of the Treasury, Washington, DC 20226.

(July 30, 1947, Ch. 390, Pub. L. 80–280, 61 Stat. 648, as amended (6 U.S.C. 6, 7))

§ 24.150 Powers of attorney.

Each bond, and each consent to changes in the terms of a bond, will be accompanied by a power of attorney whereby the surety authorizes the agent or officer who executed the bond or consent to act on behalf of the surety. The regional director (compliance) may require additional evidence of the authority of the agent or officer of the surety to execute the bond or consent. The power of attorney will be prepared on a form provided by the surety and executed under the corporate seal of the surety. If the power of attorney is other than a manually signed original, the regional director (compliance) may require a certification of validity.

(July 30, 1947, Ch. 390, Pub. L. 80–280, 61 Stat. 648, as amended (6 U.S.C. 6, 7))

§ 24.151 Deposit of collateral security.

(a) Bonds or notes of the United States, or other obligations which are unconditionally guaranteed as to both interest and principal by the United States, may be pledged and deposited as collateral security in lieu of corporate sureties in accordance with the

provisions of Treasury Department Circular No. 154 (31 CFR Part 225, Acceptance of Bonds, Notes or Other Obligations Issued or Guaranteed by the United States as Security in Lieu of Surety or Sureties on Penal Bonds). Cash, postal money orders, certified checks, cashiers' checks, or treasurers' checks may also be furnished as collateral security in lieu of corporate sureties.

(b) Treasury Department Circular No. 154 is periodically revised and contains the provisions of 31 CFR Part 225 and the forms prescribed in 31 CFR Part 225. Copies of the circular may be obtained from the Audit Staff, Financial Management Service, Department of the Treasury, Washington, DC 20226.

(July 30, 1947, Ch. 390, 61 Stat. 650 (6 U.S.C. 15); August 16, 1954, Ch. 736, 68A Stat. 847, as amended (26 U.S.C. 7101))

§ 24.152 Consents of surety.

Consents of surety to changes in the terms of bonds will be executed on ATF Form 5000.18 (1533), Consent of Surety, by the principal and by the surety with the same formality and evidence of authority as is required for the execution of bonds.

§ 24.153 Strengthening bonds.

In any instance where the penal sum of the bond on file becomes insufficient, the principal shall either give a strengthening bond with the same surety to attain a sufficient penal sum or give a new bond covering the entire liability. Strengthening bonds will not be approved where any notation is made thereon which is intended, or which may be construed, as a release of any former bond, or as limiting the amount of either bond to less than its full penal sum. Strengthening bonds will show the current date of execution and the effective date.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1394, as amended (26 U.S.C. 5551))

§ 24.154 New or superseding bonds.

When, in the opinion of the regional director (compliance), the interests of the Government demand it, or in any case where the validity of the bond becomes impaired in whole or in part for any reason, the principal will be required to give a new bond. A new bond will be required immediately in the case of the insolvency of a corporate surety. Executors, administrators, assignees, receivers, trustees, or other persons acting in a fiduciary capacity, to continue or to liquidate the business of the principal, will execute and file a new bond or obtain the consent of the surety or sureties on the existing bond or bonds. When under the provisions of § 24.157 the surety has filed an application to be relieved of liability under any bond given under this part and the principal desires or intends to continue business or operations to which the bond relates, the principal shall file a valid superseding bond to be effective on or before the date specified in the surety's notice. New or superseding bonds will show the current date of execution and the effective date.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1380, as amended, 1394, as amended (26 U.S.C. 5354, 5362, 5551))

§ 24.155 Disapproval and appeal from disapproval.

(a) *Disapproval.* The regional director (compliance) may disapprove any bonded wine premises bond or consent of surety if the individual, firm, partnership, corporation, or association giving the bond, or owning, controlling, or actively participating in the management of the bonded wine premises of the individual, firm, partnership, corporation, or association giving the bond, has been previously convicted in a court of competent jurisdiction of:

(1) Any fraudulent noncompliance with any provision of any law of the United States, if any provision relates to internal revenue taxation of distilled spirits, wine, or beer, or if the offense will be compromised with the person on payment of penalties or otherwise, or

(2) Any felony under a law of any State, or of the District of Columbia, or of the United States, prohibiting the manufacture, sale, importation, or transportation of distilled spirits, wine, beer, or other intoxicating liquor.

(b) *Appeal from disapproval.* Where a bond or consent of surety is disapproved by the regional director (compliance), the person giving the bond may appeal the disapproval to the Director. The decision of the Director will be final.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1394, as amended (26 U.S.C. 5551))

§ 24.156 Termination of bonds.

A bond prescribed in § 24.146 may be terminated as to future liability (a) pursuant to application by the surety as provided in § 24.157; (b) pursuant to approval of a superseding bond; or (c) on notification by the principal that the business has been discontinued. In the case of a tax deferral bond, the termination may be a notification by the principal that removals of wine requiring a tax deferral bond have been discontinued.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended (26 U.S.C. 5354))

§ 24.157 Application by surety for relief from bond.

A surety on any bond required by this part may at any time, in writing, notify the principal and the regional director (compliance) in whose office the bond is on file, that it desires after a specified date, to be relieved of liability under the bond. The date may not be less than 10 days after the date notice is received by the regional director (compliance) in the case of a tax deferral bond, and not less than 90 days after the date the notice is received in the case of a bonded winery, bonded wine cellar or wine vinegar plant bond. The surety will also file with the regional director (compliance) an acknowledgment, or other evidence of service, of a notice on the principal. If a notice is not thereafter in writing withdrawn, the rights of the principal as supported by the bond will be terminated on the date specified in the notice, and the surety will be relieved from liability to the extent set forth in § 24.158.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1380, as amended (26 U.S.C. 5354, 5362))

§ 24.158 Extent of relief.

(a) *General.* The surety on any bond required by this part who has filed a notice for relief from liability as provided in § 24.157 will be relieved from liability under bond as set forth in this section.

(b) *Wine bond.* Where a new or superseding bond is filed, the surety will be relieved of future liability with respect to wine, spirits, volatile fruit-flavor concentrate, or any other commodities subject to tax under 26 U.S.C. Chapter 51 on hand or in transit to bonded wine premises on or after the effective date of the new or superseding bond. Notwithstanding a relief, the surety will remain liable for the tax on all wine or volatile fruit-flavor concentrate produced at, and for wine, spirits, and volatile fruit-flavor concentrate consigned to, the bonded wine premises, and for all other liabilities incurred, during the term of the bond. Where a new or superseding bond is not filed the surety will, in addition to the continuing liabilities specified above, remain liable for all wine, spirits, volatile fruit-flavor concentrate, or other commodities subject to tax under 26 U.S.C Chapter 51 on hand or in transit to bonded wine premises on the date specified in the notice, until all the wine, spirits, volatile fruit-flavor concentrate, or commodities subject to tax under 26 U.S.C Chapter 51 have been lawfully disposed of, or a

new bond has been filed covering the liability.

(c) *Tax deferral bond.* The surety will be relieved of liability for the tax on any wine removed from the bonded wine premises after the date specified in the notice. The surety will continue to be liable for the tax on wine removed for consumption or sale on or before the date specified in the notice, until all tax is fully paid.

(d) *Wine vinegar plant bond.* The surety will be relieved of liability for tax on wine withdrawn for the manufacture of vinegar after the date specified in the notice. The surety will continue to be liable for the tax on wine withdrawn on or before the date specified in the notice, until all wine is fully accounted for.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1379, as amended, 1380, as amended (26 U.S.C. 5354, 5362))

§ 24.159 Release of collateral security.

Collateral security pledged and deposited will be released only in accordance with the provisions of 31 CFR Part 225. The collateral security will not be released by the regional director (compliance) until liability under the bond for which it was pledged has been terminated. If satisfied that the interests of the Government may not be jeopardized, the regional director (compliance) will fix the date or dates on which a part or all of the collateral security may be released. At any time prior to the release of the collateral security, the regional director (compliance) may, for proper cause, extend the date of release for any additional length of time.

(July 30, 1947, Ch. 390, Pub. L. 80–280, 61 Stat. 650 (6 U.S.C. 15))

Subpart E—Construction and Equipment

§ 24.165 Premises.

Wine premises will be located, constructed, and equipped, subject to approval by the regional director (compliance), in a manner suitable for the operations to be conducted and to afford adequate protection to the revenue.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1378, as amended, 1379, as amended, 1380, as amended, 1381, as amended (26 U.S.C. 5351, 5352, 5357, 5361, 5363))

§ 24.166 Buildings or rooms.

All buildings or rooms on wine premises in which wine operations or other operations as are authorized in this part are conducted will be located, constructed, and equipped in a manner suitable for the intended purpose and to afford adequate protection to the revenue. Each building or room will be constructed of substantial materials and separated from adjacent or contiguous buildings, rooms, or designated areas in a manner satisfactory to the regional director (compliance). Where spirits are to be received and stored in packages, a storage room equipped for locking will be provided. The proprietor shall make provisions to assure ATF officers have ready ingress to and egress from any building or room on wine premises, and shall furnish at the request of the regional director (compliance) evidence that the means of ingress and egress by ATF officers are assured. Where the regional director (compliance) finds that any building or room on wine premises is located, constructed, or equipped as to afford inadequate protection to the revenue, the proprietor will be required to make changes in location, construction, or equipment to the extent necessary to afford adequate protection to the revenue.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1378, as amended, 1379, as amended (26 U.S.C. 5352, 5357))

§ 24.167 Tanks.

(a) *General.* All tanks on wine premises used for wine operations or for other operations as are authorized in this part will be suitable for the intended purpose. Each tank used for wine operations will be located, constructed, and equipped as to permit ready examination and determination of the contents. Any tank used for wine operations not enclosed within a building or room will be enclosed within a secure fence unless the premises where the tank is located is enclosed by a fence or wall, or all tank openings are equipped for locking and locked when used for wine operations and there is no proprietor's representative on the wine premises, or the regional director (compliance) has approved some other adequate means of revenue protection. All open tanks will be under a roof or other suitable covering.

(b) *Other requirements.* Each tank used for the taxpayment of wine, storage of spirits, or spirits additions will be constructed and equipped as follows:

(1) An accurate means of measuring the contents of each tank will be provided by the proprietor. When a means of measuring is not a permanent fixture of the tank, the tank will be equipped with a fixed device to allow the approximate contents to be determined readily;

(2) Safe access to all parts of a tank will be provided by the proprietor;

(3) Tanks may not be used until they are accurately calibrated and a statement of certification of accurate calibration is included in the application;

(4) If a tank or its fixed measuring device is moved in location or position subsequent to original calibration, the tank may not be used until recalibrated; and

(5) All openings in tanks used for the storage, weighing, or measuring of spirits, or for the addition of spirits to wine, will be equipped for locking or have a similar means of revenue protection. Any vents, flame arrestors, foam devices, or other safety devices affixed to a spirits tank will be constructed to prevent extraction of the contents of the tank.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1378, as amended, 1379, as amended 1395, as amended (26 U.S.C. 5352, 5357, 5552))

§ 24.168 Identification of tanks.

(a) *General.* Each tank, barrel, puncheon, or similar bulk container, used to ferment wine or used to process or store wine, spirits, or wine making materials will have the contents marked and will be marked as required by this section.

(b) *Tank markings.* (1) Each tank will have a unique serial number. A single series of numbers will be used for all tanks, except that separate series, preceded by an identifying letter, may be used for tanks in different buildings or rooms;

(2) Each tank will be marked to show its current use, either by permanent markings or by removable signs of durable material;

(3) If of uniform dimensions from top to bottom, the capacity per inch of depth will be marked on the tank; and

(4) If used to store wine made in accordance with a formula, the formula number will be marked or otherwise indicated on the tank.

(c) *Puncheon and barrel markings.* Puncheons and barrels, or similar bulk containers over 100 gallons capacity, will be marked in the same manner as tanks. A permanent serial number need not be marked on puncheons and barrels, or similar bulk containers of less than 100 gallons capacity, used for storage, but the capacity will be permanently marked.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1378, as amended, 1379, as amended (26 U.S.C. 5352, 5357))

§ 24.169 Pipelines.

Pipelines, including flexible hoses, used to convey wine, spirits, or volatile fruit-flavor concentrate will be

constructed, connected, arranged, and secured so as to afford adequate protection to the revenue and to permit ready examination. The regional director (compliance) may approve pipelines which cannot be readily examined if no jeopardy to the revenue is created.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1378, as amended, 1379, as amended (26 U.S.C. 5352, 5357, 5552))

§ 24.170 Measuring devices and testing instruments.

(a) *Measuring devices.* The regional director (compliance) may at any time require proprietors to provide at their own expense equipment for ascertaining the capacity and contents of tanks and other storage containers, and scales and measuring devices for weighing and measuring wine, spirits, volatile fruit-flavor concentrate, or materials received and used in the production or treatment of wine. Where winemaking materials or other materials used in the treatment of wine are used immediately upon receipt on wine premises, or received and stored on bonded wine premises in original sealed shipping containers with a stated capacity, the quantity shown on the commercial invoice or other document covering the shipment may be accepted by the proprietor and entered into records in lieu of measuring the materials upon receipt.

(b) *Testing instruments.* The proprietor shall have ready access to equipment for determining the alcohol content unless the proprietor only receives and stores on wine premises bottled or packed wine with evidence showing the alcohol content had been determined. The proprietor who bottles or packs wine shall have ready access to equipment for determining the net contents of bottled or packed wine. The regional director (compliance) may require other testing instruments based upon the proprietor's operations.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1379, as amended, 1395, as amended (26 U.S.C. 5357, 5552))

Subpart F—Production of Wine

§ 24.175 General.

The kinds of wine which may be produced on bonded wine premises are:

(a) Natural wine produced in accordance with Subpart F and G of this part;

(b) Special natural wine produced in accordance with Subpart H of this part;

(c) Agricultural wine produced in accordance with Subpart I of this part; and

(d) Other than standard wine produced in accordance with Subpart J of this part.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1380, as amended, 1383, as amended, 1384, as amended, 1385, as amended, 1386, as amended (26 U.S.C. 5361, 5382, 5384, 5385, 5386, 5387))

§ 24.176 Crushing and fermentation.

In producing natural wine, water may be used to flush equipment during the crushing process or to facilitate fermentation but the density of the juice may not be reduced below 22 degrees Brix. However, if the juice is already less than 23 degrees Brix, the use of water to flush equipment or to facilitate fermentation is limited to a juice density reduction of no more than one degree Brix. At the start of fermentation no material may be added in the production of natural wine except water, sugar, concentrated fruit juice from the same kind of fruit, malo-lactic bacteria (grape wine only), yeast or yeast cultures grown in juice of the same kind of fruit, and yeast foods, sterilizing agents, precipitating agents or other approved fermentation adjuncts. Water may be used to rehydrate yeast to a maximum of two gallons of water for each pound of yeast; however, the maximum volume increase of the juice after the addition of rehydrated yeast is limited to 0.5 percent. After fermentation natural wines may be blended with each other only if produced from the same kind of fruit. Upon completion of fermentation or removal from the fermenter, the volume of wine will be accurately determined, recorded, and reported on ATF Form 5120.17 (702), Monthly Report of Wine Cellar Operations, as wine produced (any grape wine in fermenters when an annual inventory pursuant to § 24.314 is taken will be recorded and reported as produced). Any wine or juice remaining in fermentation tanks at the end of the month will be recorded and reported on ATF Form 5120.17 (702).

(Sec. 201, Pub. L. 85-859, 72 Stat. 1381, as amended, 1383, as amended, 1384, as amended, 1385, as amended (26 U.S.C. 5367, 5381, 5382, 5383, 5384))

§ 24.177 Chaptalization.

In producing natural wine from juice having a low sugar content, pure sugar may be added before or during fermentation to develop alcohol. The quantity of pure sugar added may not raise the original density of the juice above 25 degrees Brix. If the juice or wine is ameliorated, the quantity of pure sugar added to juice for chaptalization will be included as ameliorating material.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1385, as amended (26 U.S.C. 5382, 5384))

§ 24.178 Amelioration.

(a) *General.* In producing natural wine from juice having an acid level exceeding 5.0 grams per liter, the winemaker may adjust the acid level by adding ameliorating material (water, sugar, or a combination of both) before, during and after fermentation. The acid level of the juice is determined prior to fermentation and is calculated as tartaric acid for grapes, malic acid for apples, and citric acid for other fruit. Each 20 gallons of ameliorating material added to 1,000 gallons of juice or wine will reduce the acid level of the juice or wine by 0.1 gram per liter.

(b) *Limitations.* (1) Amelioration is permitted only at the bonded wine premises where the natural wine is produced.

(2) The ameliorating material added to juice or wine may not reduce the total acid level of the ameliorated juice or wine to less than 5.0 grams per liter.

(3) The amount of ameliorating material which may be added to juice derived from fruit grown in more than one State is limited to the acid level and the volume of the juice from each State determined before the juices are blended.

(4) Except for loganberries, currants, or gooseberries, the volume of ameliorating material added to juice or wine may not exceed 35 percent of the total volume of ameliorated juice or wine (calculated exclusive of pulp). Where the starting acid level is or exceeds 7.69 grams per liter, a maximum of 538.4 gallons of ameliorating material may be added to each 1,000 gallons of wine or juice.

(5) For wine produced exclusively from loganberries, currants, or gooseberries, the volume of ameliorating material added to juice or wine may not exceed 60 percent of the total volume of ameliorated juice or wine (calculated exclusive of pulp). If the starting acid level is or exceeds 12.5 grams per liter, a maximum of 1,500 gallons of ameliorating material may be added to each 1,000 gallons of wine or juice.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1384, as amended, 1385, as amended (26 U.S.C. 5383, 5384))

§ 24.179 Sweetening.

(a) *General.* In producing natural wine, sugar, juice or concentrated fruit juice of the same kind of fruit may be added after fermentation to sweeten wine. When juice or concentrated fruit juice is added, the solids content of the finished wine may not exceed 21 percent

by weight. When liquid sugar or invert sugar syrup is used, the resulting volume may not exceed the volume which would result from the maximum use of pure sugar only. Except as provided in paragraphs (a) and (b) of this section, when sugar is added, the alcohol content of the finished wine may not exceed 14 percent by volume and the solids content may not exceed 21 percent by weight.

(b) *Grape wine.* Any natural grape wine of a winemaker's own production may have sugar added after amelioration and fermentation provided the finished wine does not exceed 17 percent total solids by weight if the alcohol content is more than 14 percent by volume or 21 percent total solids by weight if the alcohol content is not more than 14 percent by volume.

(c) *Fruit wine.* Any natural fruit wine of a winemaker's own production may have sugar added after amelioration and fermentation provided the finished wine does not exceed 21 percent total solids by weight and the alcohol content is not more than 14 percent by volume.

(d) *Specially sweetened natural wine.* Specially sweetened natural wine is produced by adding to natural wine of the winemaker's own production sufficient pure sugar, juice or concentrated fruit juice of the same kind of fruit so that the finished product has a total solids content between 17 percent and 35 percent by weight, and an alcohol content of not more than 14 percent by volume. Natural wine containing added wine spirits may be used in the production of specially sweetened natural wine; however, wine spirits may not be added to specially sweetened natural wine. Specially sweetened natural wines may be blended with each other, or with natural wine or heavy bodied blending wine (including juice or concentrated fruit juice to which wine spirits have been added), in the further production of specially sweetened natural wine only if the wines (or juice) so blended is made from the same kind of fruit.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended, 1384, as amended, 1385, as amended, 1386, as amended (26 U.S.C. 5382, 5383, 5384, 5385))

§ 24.180 Use of concentrated and unconcentrated fruit juice.

Concentrated fruit juice reduced with water to its original density, or to 22 degrees Brix, or to any degree of Brix between its original density and 22 degrees Brix, and unconcentrated fruit juice reduced with water to not less than 22 degrees Brix, is considered juice for the purpose of standard wine production. The proprietor, prior to using concentrated fruit juice in wine production, shall obtain a statement in which the producer certifies the kind of fruit from which it was produced and the total solids content of the juice before and after concentration. Concentrated or unconcentrated fruit juice may be used in juice or wine made from the same kind of fruit for the purposes of chaptalizing, ameliorating or sweetening, as provided in this part. Concentrated fruit juice, or juice which has been concentrated and reconstituted, may not be used in standard wine production if at any time it was concentrated to more than 80 degrees Brix.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

§ 24.181 Use of sugar.

Only sugar, as defined in § 24.10, may be used in the production of standard wine. The use of liquid sugar or invert sugar syrup is limited so that the resulting volume will not exceed the volume which would result from the maximum use of pure sugar only. The quantity of sugar used will be determined either by measuring the increase in volume or by considering that each 13.5 pounds of pure sugar results in a volumetric increase of one gallon.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended, 1384, as amended, 1385, as amended, 1387, as amended (26 U.S.C. 5382, 5383, 5384, 5392))

§ 24.182 Use of acid to correct natural deficiencies.

Acids of the kinds occurring in fruit or berries may be added within the limitations of § 24.246 to juice or wine in order to correct natural deficiencies; however, no acid may be added to juice or wine which is chaptalized or ameliorated to correct natural deficiencies.

(a) *Grape wine.* Tartaric acid or malic acid, or a combination of tartaric acid and malic acid, may be added prior to or during fermentation, to grapes or juice from grapes and, after fermentation is completed, citric acid, fumaric acid, malic acid, lactic acid or tartaric acid, or a combination of two or more of these acids, may be added to correct natural deficiencies only to the extent that the fixed acid level of the finished wine (calculated as tartaric acid) does not exceed 8.0 grams per liter.

(b) *Fruit wine.* Only citric acid may be added to citrus fruit, juice or wine, only malic acid may be added to apples, apple juice or wine, and only citric acid or malic acid may be added to other fruit or berries or to juice or wine derived from other fruit or berries, to bring the acid level (calculated as malic acid for apples and citric acid for other fruit and berries) to 7.0 grams per liter.

(c) *Other use of acid.* A winemaker desiring to use an acid other than the acids allowed in paragraphs (a) and (b) of this section to correct natural deficiencies shall follow the procedure prescribed in § 24.250. A winemaker desiring to use acid to stabilize standard wine shall follow the requirements prescribed by § 24.244.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

§ 24.183 Use of distillates containing aldehydes.

Distillates containing aldehydes may be received on wine premises for use in the fermentation of wine and then returned to the distilled spirits plant from which distillates were withdrawn as distilling material. Distillates produced from one kind of fruit may not be used in the fermentation of wine made from a different kind of fruit. Distillates containing aldehydes which are received at bonded wine premises and not immediately used will be placed in a locked room or tank on bonded wine premises. Distillates containing aldehydes may not be mingled with wine spirits. If the distillates contain less than 0.1 percent of aldehydes, the proprietor shall comply with any additional condition relating to the receipt, storage, and use which the regional director (compliance) may require to assure that the distillates are properly used and accounted for.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1382, as amended (26 U.S.C. 5367, 5373))

§ 24.184 Use of volatile fruit-flavor concentrate.

(a) *General.* In the cellar treatment of natural wine of the winemaker's own production there may be added volatile fruit-flavor concentrate produced from the same kind of fruit or from the same variety of berry or grape so long as the proportion of volatile fruit-flavor concentrate added to the wine does not exceed the equivalent proportion of volatile fruit-flavor concentrate of the original juice or must from which it was produced.

(b) *Use of juice or must from which volatile fruit-flavor has been removed.* Juice, concentrated fruit juice, or must processed at a concentrate plant is considered to be pure juice, concentrated fruit juice, or must even though volatile fruit-flavor has been removed if, at a concentrate plant or at bonded wine premises, there is added to the juice, concentrated fruit juice, or

must (or in the case of bonded wine premises, to wine of the winemaker's own production made therefrom), either the identical volatile fruit-flavor removed or an equivalent quantity of volatile fruit-flavor concentrate derived from the same kind of fruit or from the same variety of berry or grape.

(c) *Certificate required.* The proprietor, prior to the use of volatile fruit flavor concentrate in wine production, shall obtain a certificate from the producer stating the kind of fruit or the variety of berry or grape from which it was produced and the total solids content of the juice before and after concentration.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

Subpart G—Production of Effervescent Wine

§ 24.190 General

Effervescent wine may be made on bonded wine premises. Where the effervescence results from fermentation of the wine within a closed container or bottle, the wine is classed and taxed as sparkling wine. The use of carbon dioxide, nitrogen gas, or a combination of both, is permitted to maintain counterpressure during the transfer of sparkling wine from bottles to processing tanks or *vice versa*. Wine carbonated by injection of carbon dioxide is classed and taxed as artificially carbonated wine. Sparkling wine, artificially carbonated wine, and any wine used as a base in the production of sparkling wine or artificial carbonated wine, may not have an alcohol content in excess of 14 percent by volume even though wine containing more than 14 percent of alcohol may be used in preparing a dosage for finishing sparkling wine or artificially carbonated wine.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

§ 24.191 Segregation of operations.

Where more than one process of producing sparkling wine or artificially carbonated wine is used, the regional director (compliance) may require the portion of the premises used for the production and storage of wine made by each process (bottle fermented, bulk fermented or artificially carbonated) to be segregated as provided by § 24.27.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5365))

§ 24.192 Process and materials.

In preparing still wine for the production of sparkling wine or artificially carbonated wine, sugar and a small amount of acid may be added with yeast or yeast culture to acclimate the yeast and to facilitate the process of secondary fermentation or to correct the wine. Fruit syrup, sugar, wine, wine spirits, and acid may be used in preparing a finishing dosage for sparkling wine or artificially carbonated wine provided the dosage does not exceed 10 percent by volume of the finished product. Where the proprietor desires to use more than 10 percent by volume finishing dosage, the proprietor shall file for a formula approval under § 24.80. The fruit syrup, wine spirits and wine used will come from the same kind of fruit as the wine from which the sparkling wine or artificially carbonated wine is made. In the production of sparkling wine or artificially carbonated wine, taxpaid wine spirits or wine spirits withdrawn tax-free may be used. Tax-free wine spirits may only be used in the production of sparkling wine or artificially carbonated wine which is a natural wine. In the refermentation and finishing of a sparkling wine, the acids and materials specifically authorized in § 24.246 may be used.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

§ 24.193 Conversion into still wine.

Sparkling wine or artificially carbonated wine may be dumped for use as still wine. The dumping process will allow the loss of carbon dioxide remaining in the wine.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1331, as amended (26 U.S.C. 5041, 5361))

Subpart H—Production of Special Natural Wine

§ 24.195 General.

Special natural wine is a flavored wine made on bonded wine premises from a base of natural wine. The flavoring added may include natural herbs, spices, fruit juices, natural aromatics, natural essences or other natural flavoring, in quantities or proportions that the resulting product derives character and flavor distinctive from the base wine and distinguishable from other natural wine. Fruit juices may not be used to give to one natural wine the flavor of another but may be used with herbs or spices to produce a wine having a distinctive flavor. Caramel may also be added for coloring.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1386, as amended (26 U.S.C. 5386))

§ 24.196 Formula required.

Before producing any special natural wine, the proprietor shall receive approval of the formula by which it is to be made as provided by § 24.80. Any change in a formula will be approved as provided by § 24.81.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1386, as amended (26 U.S.C. 5386))

§ 24.197 Production by fermentation.

In producing special natural wine by fermentation, flavoring materials may be added before or during fermentation. Special natural wine produced by fermentation may be ameliorated in the same manner and to the same extent as natural wine made from the same fruit. Spirits may not be added to special natural wine with the exception of wine spirits contained in authorized essences made on bonded wine premises as provided in § 24.86 or approved essences made elsewhere. Upon removal of the wine from fermenters, the volume of liquid will be determined accurately and recorded as wine produced. The quantity of liquid in fermenters at the close of each month will be reported on the ATF Form 5120.17 (702), Monthly Report of Wine Cellar Operations. Caramel and sugar may be used in special natural wine made under this section; however, the minimum 60 degrees Brix limitation prescribed in the definition of "Liquid sugar" and "Invert sugar syrup" in § 24.10 and in this section do not apply to materials used in the manufacture of vermouth. Finished vermouth produced under this section will contain a minimum of 80 percent by volume natural wine. Heavy bodied blending wine and juice or concentrated fruit juice to which wine spirits have been added may be used in the production of special natural wine pursuant to formula approval.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1386, as amended (26 U.S.C. 5386))

§ 24.198 Blending.

Special natural wine of the same class and kind may be blended with each other, and with heavy bodied blending wine, or natural wine of the same kind of fruit, in the further production of special natural wine. The blending of special natural wines produced under different formulas requires the filing and approval of a formula authorizing a blending; however, where two or more formulas have been approved for the production of special natural wine of the same type, i.e., producing a sweet vermouth by blending sweet vermouths produced under two or more approved formulas, the submission and approval of an additional formula is not required.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1386, as amended (26 U.S.C. 5386))

Subpart I—Production of Agricultural Wine

§ 24.200 General.

Agricultural wine may be produced on bonded wine premises from suitable agricultural products other than the juice of fruit. Water or sugar, or both, may be used within the limitations of this subpart in the production of agricultural wine. Agricultural wine may not be flavored or colored; however, hops may be used in the production of honey wine. Spirits may not be used in the production of the wine and a wine made from one agricultural product may not be blended with a wine made from another agricultural product. Agricultural wine made with sugar in excess of the limitations of this subpart is other than standard wine and will be segregated and clearly identified. Since grain, cereal, malt, or molasses are not suitable materials for the production of agricultural wine, these materials may not be received on bonded wine premises. Beverage alcohol products made with these materials are not classed as wine and may not be produced or stored on bonded wine premises.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1386, as amended (26 U.S.C. 5387))

§ 24.201 Formula required.

Before producing any agricultural wine, the proprietor shall obtain from the Director approval of the formula and process by which it is to be made pursuant to the provisions of § 24.80. Any change in a formula will be approved in advance as provided by § 24.81.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1386, as amended (26 U.S.C. 5387))

§ 24.202 Dried Fruit.

In the production of wine from dried fruit, a quantity of water sufficient to restore the moisture content to that of the fresh fruit may be added. If it is desired not to restore the moisture content of the dried fruit to that of the fresh fruit, or if the moisture content is not known, sufficient water may be added to reduce the density to 22 degrees Brix. If the dried fruit liquid after restoration is found to be deficient in sugar, sufficient pure sugar may be added to increase the total solids content to 25 degrees Brix. After addition of water to the dried fruit, the resulting liquid may be ameliorated with either water or sugar, or both, in such total volume as may be necessary to reduce the natural fixed acid level of the mixture to a minimum of five grams per liter; however, in no event may the volume of the ameliorating material exceed 35 percent of the total volume of the ameliorated juice or wine (calculated exclusive of pulp). Pure sugar may be used for sweetening. After complete fermentation or complete fermentation and sweetening, the finished product may not have an alcohol content of more than 14 percent by volume nor may the total solids content exceed 35 degrees Brix.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1386, as amended, 1387, as amended (26 U.S.C. 5387))

§ 24.203 Honey wine.

In the production of wine from honey, a quantity of water may be added to facilitate fermentation provided the density of the mixture of honey and water is not reduced below 22 degrees Brix. Hops may be added in quantities not to exceed one pound for each 1,000 pounds of honey. Pure sugar or honey may be added for sweetening. After complete fermentation or complete fermentation and sweetening, the wine may not have an alcohol content of more than 14 percent by volume nor may the total solids content exceed 35 degrees Brix.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1386, as amended, 1387, as amended (26 U.S.C. 5387))

§ 24.204 Other agricultural products.

In the production of wine from agricultural products, other than raisins and honey, water and sugar may be added to the extent necessary to facilitate fermentation; *Provided,* that the total weight of pure sugar used for fermentation is less than the weight of the primary winemaking material and the density of the mixture prior to fermentation is not less than 22 degrees Brix, if water, or liquid sugar, or invert sugar syrup is used. Additional sugar may be used for sweetening, provided the alcohol content of the finished wine after complete fermentation or after complete fermentation and sweetening, is not more than 14 percent by volume and the total solids content is not more than 35 degrees Brix.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1386, as amended, 1387, as amended (26 U.S.C. 5387))

Subpart J—Production of Other Than Standard Wine

§ 24.210 Classes of wine other than standard wine.

The following classes of wine are not standard wine:

(a) High fermentation wine, produced as provided in § 24.212;

(b) Heavy bodied blending wine, produced as provided in § 24.213;

(c) Spanish type blending sherry, produced as provided in § 24.214;

(d) Wine products not for beverage use, produced as provided in § 24.215;

(e) Distilling material, produced as provided in § 24.216;

(f) Vinegar stock, produced as provided in § 24.217;

(g) Wine other than those in classes listed in paragraphs (a), (b), (c), (d), (e), and (f), of this section produced as provided in § 24.218; and

(h) Spoiled wine, of the kind described in § 24.219.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1387, as amended (26 U.S.C. 5388))

§ 24.211 Formula required.

The proprietor who desires to produce wine other than standard wine shall first obtain approval of the formula by which it is to be made, except that no formula is required for distilling material or vinegar stock. The formula is filed with the Director as provided by § 24.80. Any change in the formula will be approved in advance as provided by § 24.81.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1387, as amended (26 U.S.C. 5388))

§ 24.212 High fermentation wine.

High fermentation wine is wine made with the addition of sugar within the limitations prescribed for natural wine except that the alcohol content after complete fermentation or complete fermentation and sweetening is more than 14 percent and wine spirits have not been added. Although high fermentation wine is not a standard wine, it is produced, stored, and handled on bonded wine premises subject to the same marking or labeling requirements.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1387, as amended (26 U.S.C. 5365, 5388))

§ 24.213 Heavy bodied blending wine.

Heavy bodied blending wine is wine made for blending purposes from grapes or other fruit without added sugar, and with or without added wine spirits, and having a total solids content in excess of 21 percent. Heavy bodied blending wine may be used in blending with other wine made from the same kind of fruit or for removal upon payment of tax, not for sale or consumption as beverage wine. Upon removal, the shipping containers and shipping records will be marked "Heavy Bodied Blending Wine—Not for Sale or Consumption as Beverage Wine."

(Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended, 1387, as amended (26 U.S.C. 5361, 5388))

§ 24.214 Spanish type blending sherry.

Blending wine made with partially caramelized grape concentrate may be produced, stored, and handled on, or transferred in bond between bonded wine premises, or removed upon payment of tax, not for sale or consumption as beverage wine. Wine of a high solids content and dark in color, produced under this section, is designated "Spanish Type Blending Sherry." Upon removal, the shipping containers will be marked with the applicable designation and the legend "Not for Sale or Consumption as Beverage Wine." Spanish type blending sherry is not standard wine and may not be blended with standard wine except pursuant to an approved formula or in the further production of this type of wine.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended, 1381, as amended, 1387 as amended (26 U.S.C. 5361, 5388))

§ 24.215 Wine or wine products not for beverage use.

(a) *General.* Wine, or wine products made from wine, may be treated with methods or materials which render the wine or wine products unfit for beverage use. No wine or wine products so treated may contain more than 21 percent of alcohol by volume at the time of withdrawal free of tax from bonded wine premises; nor may any wine or wine product so withdrawn be used in the compounding of distilled spirits or wine for beverage use or in the manufacture of any product intended to be used in the compounding. Wine or wine products produced under this section may be stored on and transferred in bond between bonded wine premises. Each container used to remove such wine or wine product from bond will be marked with the legend "Not for Sale or Consumption as Beverage Wine."

(b) *Salted wine.* Salted wine is a wine or wine product not for beverage use produced in accordance with the provisions of this section and having not less than 1.5 grams of salt per 100 milliliters.

(Sec. 201, Pub. L. 85–859 and Sec. 455, Pub. L. 98–369, 72 Stat. 1380, as amended (26 U.S.C. 5361, 5362))

§ 24.216 Distilling material.

Wine may be produced on bonded wine premises from grapes and other fruit, natural fruit products, or fruit residues, for use as distilling material, using any quantity of water desired to facilitate fermentation or distillation. No sugar may be added in the production of distilling material. Distillates containing aldehydes may be used in the fermentation of wine to be used as distilling material. Lees, filter wash, and other wine residues may also be accumulated on bonded wine premises for use as distilling material.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended, 1381, as amended, 1382, as amended (26 U.S.C. 5361, 5373))

§ 24.217 Vinegar stock.

Vinegar stock may be produced on bonded wine premises with the addition of any quantity of water desired to meet commercial standards for the production of vinegar. Vinegar stock may be made only by the addition of water to wine or by the direct fermentation of the juice of grapes or other fruit with added water.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended, 1381, as amended (26 U.S.C. 5361))

§ 24.218 Other wine.

(a) Wine produced with sugar and water beyond the limitations prescribed for standard wine, or wine made by blending wines produced from different kinds of fruit, or wine made with sugar other than pure sugar, or wine made with materials not authorized for use in standard wine, may be produced on bonded wine premises but will remain segregated from standard wine. Upon removal, the wine will be marked or labeled with a designation which will adequately disclose the nature and composition of the wine.

(b) Wine which is other than standard as a result of fermentation with sugar and water in excess of the limitations prescribed for standard wine will have a basic character derived from the primary winemaking material. The aggregate weight of any sugar used before and during fermentation will be less than the weight of the primary wine producing matrial. Wine spirits may be added to wine produced with sugar and water beyond the limitations for standard wine.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1387, as amended (26 U.S.C. 5365, 5388))

§ 24.219 Spoiled wine.

Whenever a standard wine becomes spoiled by reason of its condition, the spoiled wine will be immediately removed from the wine premises, unless the condition is corrected. Where the condition is not corrected, the wine will be removed for use as distilling material, for use in the manufacture of vinegar, or for destruction. Conditions requiring correction or removal are the development of volatile acidity in excess of the maximum level prescribed in 27 CFR Part 4, or disease or decomposition which causes the wine to lack the composition, color and other characteristics of standard wine of the same type.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1383, as amended (26 U.S.C. 5381))

Subpart K—Spirits

§ 24.225 General.

Wine spirits may be added to natural wine on bonded wine premises if both the wine and the spirits are produced from the same kind of fruit. In the case of still wine, wine spirits may be added in any State only to natural wine, produced by fermentation on bonded wine premises located within the same State. If wine has been ameliorated, wine spirits may be added (whether or not wine spirits were previously added) only if the wine contains not more than 14 percent of alcohol by volume derived from fermentation. Spirits other than wine spirits may be received, stored and used on bonded wine premises only for the production of nonbeverage wine and similar nonbeverage wine products. Wooden storage tanks used for the addition of spirits may not be used for the baking of wine.

(Sec. 201, Pub. L. 85–859 and Sec. 455, Pub. L. 98–369, 72 Stat. 1381, as amended, 1382, as amended, 1383, as amended, 1384, as amended (26 U.S.C. 5366, 5373, 5382, 5383))

§ 24.226 Receipt or transfer of spirits.

When spirits are received at the bonded wine premises, the proprietor shall determine that the spirits are the same as described on the transfer record and follow the procedures prescribed by 27 CFR 19.510. A copy of the transfer record, annotated to show any difference between the description of spirits and quantity received, will be maintained by the proprietor as a record of receipt. If spirits are to be transferred to a distilled spirits plant or to bonded wine premises, the proprietor shall use the transfer record and procedures prescribed by 27 CFR 19.508.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

§ 24.227 Transfer of spirits by pipeline for immediate use.

Spirits transferred by pipeline for immediate use are gauged either by weight or by volume on the bonded premises of the distilled spirits plant. Where the spirits are gauged on the bonded premises of the distilled spirits plant, the pipeline will be directly connected with the spirits addition tanks. The valves in the pipeline will be closed and locked with a lock at all times except when necessary to be opened for the transfer of spirits. Where the proprietor has placed wine in a

spirits addition tank and has determined the quantity of spirits to be added, the spirits may be transferred.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

§ 24.228 Transfer of spirits by pipeline to a spirits storage tank.

Where it is desired to transfer spirits by pipeline to bonded wine premises and store the spirits prior to use, there will be provided a suitable tank for storing the spirits. The spirits to be transferred, if not gauged on the bonded premises of the distilled spirits plant, will be gauged by weight or volume on bonded wine premises.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

§ 24.229 Tank car and tank truck requirements.

Railroad tank cars and tank trucks used to transport spirits for use in wine production will be constructed, marked, filled, labeled, and inspected in the manner required by regulations in 27 CFR Part 19.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended, 1362, as amended (26 U.S.C. 5206, 5214))

§ 24.230 Examination of tank car or tank truck.

Upon arrival of a tank car or tank truck at the bonded wine premises, the proprietor shall carefully examine the car or truck to see whether the seals are intact and whether there is any evidence of tampering or loss by leakage or otherwise. Any evidence of loss will be reported to the area supervisor. The contents of the tank car or tank truck will be gauged by weight or volume at the time of receipt by the proprietor. If the tank car or tank truck has been accurately calibrated and the calibration chart is available at the bonded wine premises, the spirits may be gauged by volume in the tank car or tank truck. In any case where a volume gauge is made, the actual measurements of the spirits in the gauging tank, tank car, or tank truck, and the temperature of the spirits will be recorded on a copy of the transfer record accompanying the shipment.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1360, as amended, 1362, as amended, 1381, as amended (26 U.S.C. 5206, 5214, 5366))

§ 24.231 Receipt of spirits in sealed bulk containers.

The proprietor shall examine sealed bulk containers (packages) of spirits received at the bonded wine premises to verify that the containers are the same as those described on the transfer record accompanying the shipment. Any container which appears to have been tampered with or from which spirits appear to have been removed or lost will be gauged by the proprietor and the proprietor shall prepare and submit to the regional director (compliance) a statement setting forth fully the circumstances and apparent cause of any loss.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1382, as amended (26 U.S.C. 5366, 5367, 5368, 5373))

§ 24.232 Gauge of spirits.

(a) If the spirits to be used are in a spirits storage tank on bonded wine premises, or received immediately prior to use from a distilled spirits plant not adjacent or contiguous to bonded wine premises, the proprietor shall determine the proof of the spirits and the quantity used by volume gauge or by weight. Upon completion of the transfer of spirits from the spirits storage tank to the spirits addition tank, the proprietor shall lock the spirits storage tank.

(b) If the spirits are received from the adjacent or contiguous bonded premises of a distilled spirits plant and are transferred directly into a spirits addition tank, the gauge of the spirits made on the distilled spirits plant premises will be used. The proprietor at the distilled spirits plant premises shall deliver a transfer record to the proprietor of bonded wine premises who shall acknowledge receipt of the spirits on the transfer record.

(c) If the spirits are received in packages and the quantity of spirits needed for the addition is not equal to the contents of full packages, a portion of one package may be used and the remnant package returned to the spirits storage room. The proprietor shall gauge the remnant package and attach to it a label showing the date of gauge, the weight of the remnant package, and the proof. The remnant package will be used at the first opportunity.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1382, as amended (26 U.S.C. 5367, 5368, 5373))

§ 24.233 Addition of spirits to wine.

(a) *Prior to the addition of spirits.* Wine will be placed in tanks approved for the addition of spirits. The proprietor shall accurately measure the wine, determine its alcohol content, determine the proof of the spirits to be added, calculate the quantity of spirits required, and enter the details in the record of spirits added to wine.

(b) *After the addition of spirits.* The proprietor shall thoroughly agitate the contents of the tank to assure a complete mixture of the wine and spirits. The proprietor shall then measure the volume of wine in the tank, take a representative sample of the wine, and test for alcohol content. The result of the measurement and test and the quantity of spirits added will be entered in the record of spirits added to wine. The volume of wine used and the volume of wine resulting from the addition of spirits will be entered in the bulk wine record. The alcohol content of wine after the addition of spirits may not exceed 24 percent by volume.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1382, as amended, 1383, as amended (26 U.S.C. 5367, 5373, 5382))

§ 24.234 Other use of spirits.

The proprietor producing sparkling wine, artificially carbonated wine, formula wine, or essences for which spirits are required may use tax-free wine spirits. For nonbeverage wine, tax-free spirits other than wine spirits or brandy may also be used. The spirits received by the proprietor will be locked in a secure room or locker on bonded wine premises. The spirits will remain in the original container in the storeroom until withdrawn for use.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1382, as amended, 1383, as amended (26 U.S.C. 5373, 5382))

§ 24.235 Taxpayment or destruction of spirits.

(a) *Taxpayment of spirits.* The proprietor who wants to taxpay spirits shall follow the prepayment of tax procedures of 27 CFR 19.522(c).

(b) *Destruction of spirits.* The proprietor who wants to destroy spirits shall file an application with the area supervisor stating the quantity of spirits, the proposed date and method of destruction, and the reason for destruction. Spirits may not be destroyed prior to approval by the area supervisor.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1382, as amended (26 U.S.C. 5373))

§ 24.236 Losses of spirits.

Losses by theft or any other cause of spirits while on bonded wine premises or in transit are to be determined and reported at the time the losses are discovered. A physical inventory of the spirits storage tanks will be taken at the close of any month during which spirits were used in wine production, or upon completion of spirits use for the month or at any other time required by the regional director (compliance). Any loss which has not previously been reported will be determined by the inventory.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1323, as amended (26 U.S.C. 5008, 5373))

§ 24.237 Spirits added to juice or concentrated fruit juice.

Juice or concentrated fruit juice to which spirits have been added may not have an alcohol content exceeding 24 percent by volume. Although not considered to be wine, juice or concentrated fruit juice to which spirits have been added, will be included in the appropriate tax class of any wine inventory and will be properly identified. Juice or concentrated juice to which wine spirits are added will be reported on the ATF Form 5120.17 (702), Monthly Report of Wine Cellar Operations, as wine, but a separate record will be maintained.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

Subpart L—Storage, Treatment and Finishing of Wine

§ 24.240 General.

Wine is to be stored on bonded wine premises in buildings or tanks constructed and secured in accordance with the provisions of §§ 24.166 and 24.167. Wine may be stored in tanks, casks, barrels, cased or uncased bottles, or in any suitable container, which will not contaminate the wine. Specifically authorized materials and processes for the treatment and finishing of wine are listed in §§ 24.246 and 24.248 of this subpart.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1378, as amended, 1379, as amended, 1383, as amended, 1395, as amended (26 U.S.C. 5352, 5357, 5382, 5552))

§ 24.241 Decolorizing wine.

(a) *Conditions and limitations.* If the proprietor wishes to use activated carbon or other decolorizing material to remove excess color from white wine (other than vermouth), or from pale dry sherry or cocktail sherry, the proprietor shall meet the following conditions and limitations:

(1) *White wine.* (i) The vinous character of the wine treated will not be reduced; (ii) the quantity of activated carbon or other decolorizing material used to treat white wine, including any decolorizing material used in the basic wine-producing material may not exceed nine pounds per 1,000 gallons; (iii) the total amount of decolorizing material used in the white wine before and after a transfer of wine in bond may not exceed the prescribed limitations of nine pounds per 1,000 gallons (see paragraph (b) of this section); and (iv) white wine treated with decolorizing material will have a color of not less than 0.6 Lovibond in a one-half inch cell or not more than 95 percent transmittance per AOAC Method 11.003–11.004 (see paragraph (c) of this section). However, the proprietor may produce a white wine having a color of less than 0.6 Lovibond or more than 95 percent transmittance per AOAC Method 11.003–11.004 by using normal methods and without the use of decolorizing material.

(2) *Pale dry sherry or cocktail sherry.* (i) The amber color and flavor characteristics generally attributed to sherry will be retained; (ii) the quantity of activated carbon or other decolorizing material used, including any decolorizing material used in the basic wine-producing material, may not exceed 25 pounds per 1,000 gallons of wine; (iii) the total amount of decolorizing material used in pale dry sherry or cocktail sherry before and after a transfer of wine in bond may not exceed the prescribed limitation of 25 pounds per 1,000 gallons (see paragraph (b) of this section); and (iv) the pale dry sherry or cocktail sherry treated with decolorizing material will have a color of not less than 0.6 Lovibond in a one-half inch cell or not more than 95 percent transmittance per AOAC Method 11.003–11.004 (see paragraph (c) of this section). However, the proprietor may produce a pale dry sherry or cocktail sherry having a color of less than 0.6 Lovibond or more than 95 percent transmittance per AOAC method 11.003–11.004 by using normal methods and without the use of decolorizing material.

(b) *Transfer in bond.* When a consignor proprietor transfers white wine, or pale dry sherry, or cocktail sherry treated with activated carbon or other decolorizing material to a consignee proprietor, the consignor proprietor shall record on the shipping record:

(1) The amount of the white wine, pale dry sherry, or cocktail sherry which has been treated under the provisions of this section; and

(2) The amount of decolorizing material used in treating the white wine or pale dry sherry or cocktail sherry before its transfer. The consignee proprietor may further treat the white wine or pale dry sherry or cocktail sherry with decolorizing material as long as the consignee proprietor has a copy of the shipping record and complies with the requirements of this section.

(c) *Incorporation by reference.* The "Official Methods of Analysis of the Association of Official Analytical Chemists" (AOAC Method 11.003–11.004; 13th Edition 1980) is incorporated by reference in this part. This incorporation by reference was approved by the Director of the Federal Register on May 7, 1981, and is available for inspection at the Office of the Federal Register, Room 8401, 1100 L Street, NW., Washington, DC. The publication is available from the Association of Official Analytical Chemists, 11 North 19th Street, Suite 210, Arlington, Virginia 22209.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

§ 24.242 Authority to use greater quantities of activated carbon in juice and in white wine.

(a) *Proprietor's notice.* If the proprietor desires to remove color from juice prior to fermentation or if color in excess of that normally present in white wine develops during the production or storage of a particular lot or lots, and if the proprietor desires to use activated carbon in excess of nine pounds per 1,000 gallons (1.08 grams per liter) of juice or white wine to remove this color, the proprietor, prior to starting the treatment, shall submit to the regional director (compliance) a written notice for each lot of juice or white wine to be treated with activated carbon for decolorization. The written notice will state (1) the reason for the treatment; (2) the volume, kind, and type of juice or white wine to be treated; (3) the kind and quantity of activated carbon to be used for decolorization; and, (4) the length of time the activated carbon is in contact with the juice or white wine.

(b) *Action by the regional director (compliance) on proprietor's notice.* Upon receipt of the proprietor's notice, the regional director (compliance) may require the proprietor to submit samples representative of the lot of juice or white wine for examination by the ATF laboratory.

(c) *Samples and chemical analysis.* (1) *Samples.* If the regional director (compliance) requires samples under paragraph (b) of this section, the proprietor shall prepare samples representative of the lot of juice or white wine for examination. The samples will consist of (i) the juice or white wine before treatment with activated carbon, (ii) the juice or white wine after treatment with activated carbon, and (iii) the activated carbon used for decolorization.

(2) *Chemical analysis.* If the ATF chemical analyses of the samples shows that the proposed treatment would remove only the color of the juice, or in the case of white wine only the excess color and will not remove any of the usual natural color or other vinous characteristics of the white wine, the regional director (compliance) will return a copy of the proprietor's written

notice. If the ATF chemical analysis shows that the proposed treatment is not acceptable, the regional director (compliance) will send the proprietor a letter stating the reason(s) for disallowing the proposed treatment.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

§ 24.243 Filtering aids.

Inert fibers, pulps, earths, or similar materials, may be used as filtering aids in the cellar treatment and finishing of wine. Agar-agar, carrageenan, cellulose, and diatomaceous earth are commonly employed inert filtering aids. In general, there is no limitation on the use of inert materials and no records need be maintained concerning their use. However, if the inert material is dissolved in water prior to addition to wine, then the records required by § 24.301 will be maintained. Filtering aids which contain active chemical ingredients or which may alter the character of wine, may be used only in accordance with the provisions of § 24.246.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

§ 24.244 Use of acid to stabilize standard wine.

Standard wine other than citrus wine, regardless of acid level, may be stabilized as a part of the finishing process by the addition of citric acid within the limitations of § 24.246. Standard wine made from grapes, apples, or citrus fruit may be stabilized by the addition of fumaric acid within the limitations of § 24.246.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5382))

§ 24.245 Use of carbon dioxide in still wine.

The addition of carbon dioxide to (and retention in) still wine is permitted if at the time of removal for consumption or sale the still wine does not contain more than 0.392 grams of carbon dioxide per 100 milliliters of wine. However, a tolerance of not more than 0.009 grams per 100 milliliters to the maximum limitation of carbon dioxide in still wine will be allowed where the amount of carbon dioxide in excess of 0.392 grams per 100 milliliters is due to mechanical variations which can not be completely controlled under good commercial practice. A tolerance will not be allowed where it is found that the proprietor continuously or intentionally exceeds 0.392 grams of carbon dioxide per 100 milliliters of wine or where the variation results from the use of methods or equipment determined by the Director not in accordance with good commercial practice. The proprietor shall determine the amount of carbon dioxide added to wine using authorized test procedures announced by the Director. Penalties are provided in 26 U.S.C. 5662 for any person who, whether by manner of packaging or advertising or by any other form of representation, misrepresents any still wine to be effervescent wine or a substitute for effervescent wine.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1331, as amended 1381, as amended, 1407, as amended (26 U.S.C. 5041, 5367, 5662))

§ 24.246 Materials authorized for treatment of wine and juice.

Materials used in the process of filtering, clarifying, or purifying wine may remove cloudiness, precipitation, and undesirable odors and flavors, but the addition of any substance foreign to wine which changes the character of the wine, or the abstraction of ingredients which will change its character, to the extent inconsistent with good commercial practice, is not permitted on bonded wine premises. The materials listed in this section are approved as being consistent with good commercial practice in the production, cellar treatment, or finishing of wine, and, where applicable, in the treatment of juice, within the limitations specified in this section. However, when the specified use or limitation of any material on his list is determined to be unacceptable by the U.S. Food and Drug Administration, the Director may cancel or amend the approval for use of the material in the production, cellar treatment, or finishing of wine. And further, if water is added to facilitate the solution or dispersal of a material, the volume of water added, whether the material is used singly or in combination with other water based treating materials, may not total more than one percent of the volume of the treated wine or juice, or both, used to produce the wine.

Materials	Use	Reference or limitation
Acacia (gum arabic)	To clarify and to stabilize wine	The amount used will not exceed 2 lbs/1,000 gals. (0.24 g/l of wine. 21 CFR 184.1330 (GRAS [1]). See footnotes at end of table.
Activated	To assist precipitation during fermentation.	§ 24.176. GRAS per FDA advisory opinion dated 1/26/79.
	To clarify and to purify wine	The amount used to clarify and to purify wine will be included in the total amount of activated carbon used to remove excessive color in wine. §§ 24.241 and 24.242 (GRAS).
	To remove excessive color in white wine.	The amount used will not exceed 9 lbs/1,000 gals. (1.08 g/l) of wine. If the amount used exceeds this limit, a notice is required pursuant to § 24.242 (GRAS).
	To remove excessive color in pale dry sherry or cocktail sherry.	The amount used will not exceed 25 lbs/1,000 gals. (3.0 g/l) of wine. § 24.241 (GRAS).
	To reduce color in the juice from red and black grapes.	The amount used to reduce color may not exceed 4 lbs/1,000 gals. (0.48 g/l) of juice. Wine made from juice so treated will have a color of not more than 95 percent transmittance per AOAC [2] Method 11.003–11.004 (13th Ed.) or equivalent.
Albumen (egg white)	Fining agent for wine	May be prepared in a light brine: 1 oz. (28.35 grams) potassium chloride, 2 lbs (907.2 grams) egg white, 1 gal. (3.785 l) of water usage not to exceed 1.5 gals. of solution per 1,000 gals. of wine. (GRAS).
Alumino-silicates (hydrated) e.g., Bentonite (Wyoming clay) and Kaolin.	To clarify wine	21 CFR 182.2727, 182.2729, 184.1155 (GRAS) and 186.1256. The sodium content of the wine shall not be increased by such treatment. Request for GRAS advisory opinion pending.
Ammonium carbonate	Yeast nutrient to facilitate fermentation in wine.	The amount used may not exceed 2 lbs/1,000 gals. (0.24 g/l). 21 CFR 184.1137 (GRAS).
Ammonium phosphate (mono- and dibasic).	Yeast nutrient in wine production and to start secondary fermentation in the production of sparkling wine.	As a yeast nutrient in wine production, the amount may not exceed 1.7 lbs/1,000 gals. (0.20 g/l). In the production of sparkling wine, the amount used may not exceed 8 lbs/1,000 gals. (1.00 g/l) of wine. 21 CFR 184.1141 (GRAS).
Ascorbic acid, *iso*-ascorbic acid (erythorbic acid).	To prevent oxidation of color and flavor components of juice and wine.	May be added to fruit, grapes, berries, and other materials used in wine production, to the juice of such materials, or to the wine, within the limitations which do not alter the class or type of the wine. 21 CFR 182.3013 and 182.3041 (GRAS).
Autolyzed yeast	Yeast nutrient to facilitate fermentation in the production of grape or fruit wine.	21 CFR 172.896, 184.1983. GRAS per FDA advisory opinion of 10/6/59.
Calcium carbonate (with or without calcium salts of tartaric and malic acids).	To reduce the excess natural acids in high acid wine.	The natural or fixed acids may not be reduced below 5 g/l. 21 CFR 184.1069, 184.1099, and 184.1191 (GRAS).
	A fining agent for cold stabilization	The amount used may not exceed 30 lbs/1,000 gals. (3.59 g/l) of wine.
Calcium sulfate (gypsum)	To lower pH in sherry wine	The calcium sulfate content of the finished wine may not exceed 16.69 los/1,000 gals. (2.0 g/l). 21 CFR 184.1230 (GRAS).

Materials	Use	Reference or limitation
Carbon dioxide	To stabilize[3] and to preserve wine	§ 24.245. 21 CFR 184.124 (GRAS).
	To maintain counterpressure during the transfer of sparkling wine.	The carbon dioxide content of the finished wine may not be increased during the transfer operation. § 24.190.
Casein, potassium salt of casein.	To clarify wine	GRAS per FDA opinions of 2/23/60 and 8/25/61. § 24.243.
Citric acid	To correct natural acid deficiencies in wine.	§§ 24.182 and 24.192; 21 CFR 182.1033 (GRAS).
	To stabilize wine other than citrus wine.	The amount of citric acide may not exceed 5.8 lbs/1,000 gals. (0.7 g/l). § 24.244; 21 CFR 182.1033 (GRAS).
Copper sulfate	To remove hydrogen sulfide and/or mercaptans from wine.	The quantity of copper sulfate added (calculated as copper) may not exceed 0.5 part copper per million parts of wine with the residual level of copper not to be in excess of 0.2 part per million. GRAS per FDA advisory opinion of 7/23/69.
Defoaming agents: (polyoxyethylene 40 monostearate, silicon dioxide, dimethylpolysiloxane, and sorbitan monostearate).	To control foaming	Defoaming agents which are 100% active may be used in amounts not exceeding 0.15 lbs/1,000 gals. (0.018 g/l) of wine. defoaming agents which are 30% active may be used in amounts not exceeding 0.5 lbs/1,000 gals. (0.06 g/l) of wine Silicon dioxide will be completely removed by filtration. The amount of silicon remaining in the wine may not exceed 10 parts per million and no soluble residue in excess of 25 parts per million will remain in the wine. 21 CFR 173.340.
Enzymatic activity		The enzyme preparation use will be prepared from nontoxic and nonpathogenic microorganisms in accordance with good manufacturing practice and be approved for use in food by either FDA regulation or by FDA advisory opinion.
Carbohydrase (*alpha*-Amylase).	To convert starches to fermentable carbohydrates.	The amylase enzyme activity will be derived from *Aspergillus niger, Aspergillus oryzae, Bacillus subtilis,* or barley malt per FDA advisory opinion of 8/18/83 or from *Rhizopus oryzae* per 21 CFR 173.130 or from *Bacillus licheniformis* per 21 CFR 184.1027.
Carbohydrase (*beta*-Amylase).	To convert starches to fermentable carbohydrates.	The amylase enzyme activity will be derived from barley malt per FDA advisory opinion dated 8/18/83.
Carbohydrase (Glucoamylase, Amylogluco-sidase).	To convert starches to fermentable carbohydrates.	The amylase enzyme activity will be derived from *Aspergillus niger* or *Aspergillus oryzae* per FDA advisory opinion dated 8/18/83 or from *Rhizopus oryzae* per 21 CFR 173.130 or from *Rhizopus niveus* per 21 CFR 173.110.
Catalase	To clarify and to stabilize wine	The enzyme activity will be derived from *Aspergillus niger* or bovine liver per FDA advisory opinion dated 8/18/83 (GRAS).
Cellulase	To clarify and to stabilize wine and to facilitate separation of the juice from the fruit.	The enzyme activity will be derived from *Aspergillus niger* per FDA advisory opinion dated 8/18/83 (GRAS).
Glucose oxidase	To clarify and to stabilize wine	The enzyme activity will be derived from *Aspergillus niger* per FDA advisory opinion of 8/18/83 (GRAS).
Pectinase	To clarify and to stabilize wine and to facilitate separation of juice from the fruit.	The enzyme activity will be derived from *Aspergillus niger* per FDA advisory opinion dated 8/18/83 (GRAS).
Protease (general)	To reduce or to remove heat labile proteins.	The enzyme activity used will be derived from *Aspergillus niger* or *Bacillus subtilis* per FDA advisory opinion dated 8/18/83 or from *Bacillus licheniformis* per 21 CFR 184.1027 (GRAS).
Protease (Bromelin)	To reduce or to remove heat labile proteins.	The enzyme activity used will be derived from *Ananus comosus* or *Ananus bracteatus (L)* per FDA advisory opinion dated 8/18/83 (GRAS).
Protease (Ficin)	To reduce or to remove heat labile proteins.	The enzyme activity used will be derived from *Ficus spp.* per FDA advisory opinion dated 8/18/83 (GRAS).
Protease (Papain)	To reduce or to remove heat labile proteins.	The enzyme activity used will be derived from *Carica papay (L)* per 21 CFR 184.1585 (GRAS).
Protease (Pepsin)	To reduce or to remove heat labile proteins.	The enzyme activity used will be derived from porcine or bovine stomachs per FDA advisory opinion dated 8/18/83 (GRAS).
Protease (Trypsin)	To reduce or to remove heat labile proteins.	The enzyme activity used will be derived from porcine or bovine pancreas per FDA advisory opinion dated 8/18/83 (GRAS).
Ethyl maltol	To smooth wine	Use limited to not more than 100 mg/l. 21 CFR 172.515.
Ferrocyanide compounds (sequestered complexes).	To remove trace metal from wine to remove objectionable levels of sulfide and mercaptans from wine..	No insoluble or soluble residue in excess of 1 part per million will remain in the finished wine and the basic character of the wine may not be changed by the treatment. GRAS per FDA advisory opinion of 6/22/82.
Ferrous sulfate	To clarify and to stabilize wine	The amount used may not exceed 3 ozs./1,000 gals. (0.022 g/l) of wine. 21 CFR 182.8315 (GRAS).
Fumaric acid	To correct natural acid deficiencies in grape wine.	§§ 24.182 and 24.192 21 CFR 172.350. The fumaric acid content of the finished wine may not exceed 3.0 g/l.
	To stabilize wine	Use may not exceed 25 lbs/1,000 gals. (3.0 g/l). § 24.244, and 21 CFR 172.350. The fumaric acid content of the finished wine may not exceed 3.0 g/l.
Gelatin (food grade)	To clarify juice or wine	(GRAS).
Granular cork	To treat wine	The amount used may not exceed 10 lbs/1,000 gals. of wine (1.2 g/l). Request for GRAS advisory opinion pending.
Hydrogen peroxide	To facilitate secondary fermentation in the production of sparkling wine.	Amount used may not exceed 3 parts per million. The finished wine will contain no residual hydrogen peroxide. (GRAS).
	To remove color from the juice of red and black grapes.	The amount used may not exced 500 parts per million. The use of hydrogen peroxide is limited to oxidizing color pigment in the juice of red and black grapes. 21 CFR 182.1366 (GRAS).
Isinglass	To clarify wine	Request for GRAS advisory opinion pending.
Lactic acid	To correct natural acid deficiencies in grape wine.	§§ 24.182 and 24.192; 21 CFR 182.1061 (GRAS).
Malic acid	To correct natural acid deficiencies in juice or wine.	§§ 24.182 and 24.192. 21 CFR 184.1069 (GRAS).
Malo-lactic bacteria	To stabilize grape wine	Malo-lactic bacteria of the type *Leuconostoc oenos* may be used in treating wine. Request for GRAS advisory opinion pending.
Maltol	To smooth wine	Use limited to not more than 250 mg/l. 21 CFR 172.515.
Nitrogen gas	To maintain pressure during filtering and bottling of wine and to prevent oxidation of wine.	21 CFR 184.1540 (GRAS).
Oak chips or particles, uncharred and untreated.	To smooth wine	21 CFR 172.510.
Oxygen and compressed air.	In baking or maturing wine and aeration of sherry.	May be used provided it does not cause changes in the wine other than those occurring during the usual storage in wooden cooperage over a period of time.
Parabens (n-alkyl esters of p-hydroxl-bezoic acid: heptyl-, propyl-, and methyl-.	To preserve wine	Use, separately or in combination may not exceed 0.1 percent by weight (w/w). Use of n-heptyl-paraben may not exceed 12 parts per million. 21 CFR 172.145, 184.1490, 184.1670 (GRAS).
Polyvinyl- polypyr-rolidone (PVPP).	To clarify and to stabilize wine	The amount used may not exceed 6 lbs/1,000 gals. (0.72 g/l) of wine. Material will be removed during filtration. 21 CFR 173.50.
Polyvinyl-pyrrolidone (PVP).	To clarify wine	The residual level of PVP in the finished wine may not exceed 60 parts per million. 21 CFR 173.55.
Potassium benzoate	To preserve wine	Use separately or in combination with other approved antimicrobial agents may not exceed 0.1 percent of the volume of juice and/or wine so treated. GRAS advisory opinion pending.
Potassium bitartrate	To stabilize grape wine	The amount used may not exceed 35 lbs/1,000 gals. (4.19 g/l) of grape wine. 21 CFR 184.1077 (GRAS).
Potassium carbonate and/or potassium bicarbonate.	To reduce excess natural acidity in wine.	The natural or fixed acids may not be reduced below 5 grams per liter. 21 CFR 184.1613 and 184.1619 (GRAS).

Materials	Use	Reference or limitation
Potassium citrate	pH control agent and sequestrant in treatment of citrus wine.	The amount of potassium citrate may not exceed 25 lbs/1,000 gals. (3.0 g/l) of finished wine. § 24.182; 21 CFR 182.1625 and 182.6625 (GRAS).
Potassium meta-bisulfite	To sterilize and to preserve wine	The sulfur dioxide content of the finished wine may not exceed the limitations prescribed in 27 CFR 4.22. 21 CFR 182.3637 (GRAS).
Propylene glycol	Solvent for parabens	The amounts used may not exceed 40 parts per million in wine. 21 CFR 184.1666 (GRAS).
Silica gel (colloidal silicon dioxide)	To clarify wine	Use may not exceed the equivalent of 20 lbs. colloidal silicon dioxide at a 30% concentration per 1,000 gals. of wine (2.4 g/l). Silicon dioxide will be completely removed by filtration. (GRAS)
Sorbic acid and potassium salt of sorbic acid.	To sterilize and to preserve wine; to inhibit mold growth and secondary fermentation.	The finished wine will contain not more than 30 milligrams of sorbic acid per liter of wine. 21 CFR 183.3089 and 182.3640 (GRAS).
Soy flour (defatted)	Yeast nutrient to facilitate fermentation of wine.	The amount used may not exceed 2 lbs/1,000 gals. (0.24 g/l) of wine. (GRAS)
Sulfur dioxide	To sterilize and to preserve wine	The sulfur dioxide content of the finished wine may not exceed the limitations prescribed in 27 CFR 4.22(b)(1). 21 CFR 182.3862 (GRAS).
Tannin	To adjust tannin content in apple juice or wine.	The residual amount of tannin may not exceed 3.0 g/l, calculated as gallic acid equivalents (GAE). GRAS per FDA advisory opinions dated 4/6/59 and 3/29/60.
	To clarify or to correct tannin deficiencies in grape juice or wine.	The residual amount of tannin, calculated in gallic acid equivalents, may not exceed 0.8 g/l in white wine and 3.0 g/l in red and rose wine. Only tannin which does not impart color may be used in the cellar treatment of juice or wine. GRAS per FDA advisory opinion dated 4/6/59 and 3/29/60.
Tartaric acid	To correct natural acid deficiencies in grape juice or grape wine.	Use as prescribed in §§ 24.182 and 24.192; 21 CFR 184.1099 (GRAS).
Thiamine hydrochloride	Yeast nutrient to facilitate fermentation of wine.	The amount used may not exceed 0.005 lb/1,000 gals. (0.6 mg/l) of wine or juice. 21 CFR 184.1875 (GRAS).
Urea	Yeast nutrient to facilitate fermentation of wine.	The amount used may not exceed 2 lbs/1,000 gals. (0.24 g/l) of wine. 21 CFR 184.1923 (GRAS).

[1] GRAS—An acronym for "generally recognized as safe." The term means that the treating material has an FDA listing in Title 21, Code of Federal Regulations, Part 182 or Part 184, or is considered to be generally recognized as safe by the U.S. Food and Drug Administration.
[2] AOAC—Association of Official Analytical Chemists.
[3] To stabilize—To prevent or to retard unwanted alteration of chemical and/or physical properties.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1383, as amended (26 U.S.C. 5381, 5382, 5385, 5386, and 5387))

§ 24.247 Materials authorized for treatment of distilling material.

The materials listed in this section as well as the materials listed in § 24.246 are approved as being consistent with good commercial practice for use by the proprietor of a bonded winery or bonded wine cellar in the treatment of distilling material within the limitations specified in this section. However, when the specified use of limitation of any material on this list is determined to be unacceptable by the U.S. Food and Drug Administration, the Director may cancel or amend the approval for use of the material in the treatment of distilling material.

Materials	Use	Reference or limitation
Amonium phosphate (mono- and dibasic).	Yeast nutrient in distilling material	The amount used may not exceed 10 lbs/1,000 gals. (1.2 g/l). 21 CFR 184.1141 (GRAS).[1] See footnote at end of table.
Amylase enzyme activity:		The enzyme preparation used will be prepared from nontoxic and nonpathogenic microorganisms in accordance with good manufacturing practice and be approved for use in food by either FDA regulation or by FDA advisory opinion.
Carbohydrase (*alpha-Amylase*)	To convert starches to fermentable carbohydrates.	The amylase enzyme activity will be derived from *Aspergillus niger, Aspergillus oryzae, Bacillus subtilis,* or barley malt per FDA advisory opinion of 8/18/83 or from *Rhizopus oryzae* per 21 CFR 173.130 or from *Bacillus licheniformis* per 21 CFR 184.1027.
Carbohydrase (*beta-Amylase*).	To convert starches to fermentable carbohydrates.	The amylase enzyme activity will be derived from barley malt per FDA advisory opinion dated 8/18/83.
Carbohydrase (Glucoamylase, Amyloglucosidase).	To convert starches to fermentable carbohydrates.	The amylase enzyme activity will be derived from *Aspergillus niger* or *Aspergillus oryzae* per FDA advisory opinion dated 8/18/83 or from *Rhizopus oryzae per 21 CFR 173.130 or from Rhizopus niveus* per 21 CFR 173.110.
Copper sulfate	To eliminate hydrogen sulfide and mercaptans.	The finished brandy or wine spirits produced from distilling material to which copper sulfate has been added may not contain more than 2 parts per million (2 mg/l) residual copper. GRAS per FDA advisory opinion of 7/23/69.
Hydrogen peroxide	To reduce the bisulfite aldehyde complex in distilling material.	The amount used may not exceed 200 parts per million. 21 CFR 182.1366 (GRAS).
Potassium permanganate	Oxidizing agent	The finished brandy or wine spirits produced from distilling material to which potassium permanganate has been added will be free of chemical resid resulting from such treatment. (GRAS)
Sodium benzoate	To prevent fermentation of the sugar in special natural wine being accumulated as distilling material.	The amount used may n exceed 0.1% (w/w). 21 CFR 184.1733 (GRAS).
Sodium hydroxide	Acid neutralizing agent	The finished brandy or wine spirits produced from distilling material to which sodium hydroxide has been added will be free of chemical residue resulting from the treatment. 21 CFR 184.1763 (GRAS).
Sulfuric acid	To effect favorable yeast development in distilling material; to prevent fermentation of the sugar in special natural wine being accumulated as distilling material; to lower pH to 2.5 to prevent putrefaction and/or ethyl acetate development.	§ 24.216; 21 CFR 184.1095 (GRAS).

[1] GRAS—An acronym for "generally recognized as safe." The term means that the treating material has an FDA listing in Title 21, Code of Federal Regulations, Part 182 or Part 184, or is considered to be generally recognized as safe by the U.S. Food and Drug Administration.

(Sec. 201, Pub. L. 85-859, 72 Stat. 1383, as amended (26 U.S.C. 5381, 5382, 5385, 5386, and 5387))

§ 24.248 Processes authorized for treatment of wine, juice, and distilling material.

The processes listed in this section are approved, as being consistent with good commercial practice, for use by the proprietor of a bonded winery or bonded wine cellar in the production, cellar treatment, or finishing of standard wine, juice, and distilling material, within the limitations specified in this section. However, wher the specified

use or limitation of any process on this list is determined to be unacceptable for use in foods and beverages by the U.S. Food and Drug Administration, the Director may cancel or amend the approval for use of the process in the production, cellar treatment, or finishing of standard wine, juice, and distilling material.

Processes	Use	Reference or limitation
Ion exchange	Various applications in the treatment of wine.	Anion, cation, and non/ionic resins, except those anionic resins in the mineral acid state, may be used in batch or continuous column processes as total or partial treatment of wine, provided that with regard to the finished wine: 1. The treatment will not alter the vinous character of the wine. 2. The treatment will not reduce the color of the wine to less than that normally contained in the wine. 3. Treatment will not increase inorganic anions in the wine by more than 10 mg/l. 4. The treatment will not reduce the metallic cation concentration in the wine to less than 300 mg/l. 5. The treatment will not reduce natural or fixed acid in grape wine below 4 g/l for red table wine, 3 g/l for white table wine, 2.5 g/l for all other grape wine, 4 g/l for wine other than grape wine. 6. Treatment will not reduce the pH of the wine to less than pH 3 nor increase the pH to more than pH 4.5. 7. The resins used will not impart to the wine any material or characteristic (incidental to the resin treatment) which may be prohibited under any other section of the regulations in this part. The winemaker may employ conditioning and/or regenerating agents consisting of water, fruit acids common to the wine being treated, and inorganic acids, salts and/or bases provided the conditioned or regenerated resin is rinsed with water until the resin and container are essentially free from unreacted (excess) conditioning or regenerating agents prior to the introduction of the wine. 21 CFR 173.25.
Thermal gradient processing.	To separate standard wine into low alcohol and high alcohol wine fractions.	The fractions derived from the processing will retain the color, taste, and other vinous characteristics of the wine prior to treatment. The treatment may not reduce the ethyl alcohol content of the low alcohol fraction to less than 3 percent by volume nor increase the alcohol content of the high alcohol fraction to more than 24 percent by volume. Blending is restricted to wine of the proprietor's own production. Reconstitution, i.e., the addition of water other than that originally present in the wine prior to processing, is prohibited.
Thin-film evaporation under reduced pressure.	To separate standard wine into a low alcohol wine fraction and into a higher alcohol distillate.	The wine treated will retain the color, flavor and other vinous characteristics of the wine prior to treatment. The treatment may not reduce the ethyl alcohol content of the low alcohol fraction to less than 3 percent by volume. Blending is restricted to wine of the proprietor's own production. Reconstitution, i.e., the addition of water other than that originally present in the wine prior to processing, is prohibited. Water lost in processing may be recovered by refluxing in a closed continuous system and returned to the wine from which it was extracted.
Elimination of sulfur dioxide by physical process.	To reduce the sulfur dioxide content of juice.	Use of a physical process to remove sulfur dioxide from juice may not alter the basic character of the juice so treated.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5381, 5382, 5385, 5386, and 5387))

§ 24.249 Experimentation with new treating material or process.

(a) *General.* The proprietor may, under the provisions of this section, conduct on bonded wine premises experimentation with a treating material or process as the Director finds may be conducted in a manner that will not jeopardize the revenue, conflict with wine operations, or be contrary to law.

(b) *Application.* The proprietor who desires to conduct experimentation shall file an application with the regional director (compliance) setting forth in detail the experimentation to be conducted and the facilities and equipment to be used. The proposed experimentation will not be conducted until the Director has determined that the conduct of such experimentation will not jeopardize the revenue, conflict with wine operations, or be contrary to law; and the regional director (compliance) has approved the application. Where the Director has determined previously that an experiment may be conducted on bonded wine premises, the regional director (compliance) may approve applications to conduct a similar type of experiment, unless the regional director (compliance) finds that there are particular conditions in respect of the applicant's premises or operations that would cause the conduct of this experiment to be a jeopardy to the revenue or to conflict with wine operations.

(c) *Segregation of operations.* Experimentation authorized under this section will be conducted with the degree of segregation from wine operations as may be required by the regional director (compliance) under the provisions of § 24.27.

(d) *Records.* The proprietor shall, with respect to each experiment authorized under this section, keep records of the kind and quantity of materials received and used and the volume of wine treated. The disposition of the wine will be done in accordance with the provisions of § 24.97.

(Sec. 201, Pub. L. 85–859 (72 Stat. 1383, as amended (26 U.S.C. 5361, 5382))

§ 24.250 Application for use of new treating material or process.

(a) *General.* If the proprietor desires to use a material or process which is not specifically authorized in §§ 24.246, 24.247, 24.248, or elsewhere in this part, an application shall be filed with the regional director (compliance) of the region in which the bonded wine premises is located to show that the proposed material or process is a cellar treatment consistent with good commercial practice.

(b) *Data required.* The application will include the following: (1) The name and description of the material or process; (2) the purpose, the manner, and the extent to which the material or process is to be used together with any technical bulletin or other pertinent information relative to the material or process; (3) a sample, if a proposed material; (4) documentary evidence of the U.S. Food and Drug Administration's approval of the material for its intended purpose in the amounts proposed for the particular treatment contemplated; (5) the test results of any laboratory-scale pilot study conducted by the winemaker in testing the material and an evaluation of the product and of the treatment including the results of tests of the shelf life of the treated wine; (6) a tabulation of pertinent information derived from the testing program conducted by the chemical manufacturer demonstrating the function of the material or process; (7) a list of all chemicals used in compounding the treating material and the quantity of each component; (8) the recommended maximum and minimum amounts, if any, of the material proposed to be used in the treatment and a statement as to the volume of water required, if any, to facilitate the addition of the material or operation of the process; and, (9) two 750-milliliter samples representative of the wine before and after treatment. Information of a confidential or proprietary nature to the manufacturer or supplier of the treating material or process may be forwarded by the manufacturer or supplier to the Director with a reference to the application filed by the winemaker.

(c) *Use of cellar treatment.* The proprietor may not use the proposed treating material or process until a determination has been made by the Director that the intended use of the material or process is acceptable in

good commercial practice. If the regional director (compliance) has been advised by the Director that the use of the material or process has been previously approved, the proprietor will be informed of the approval and of any limitations which will be observed. However, if the regional director (compliance) has not been advised, the application will be forwarded to the Director for a decision regarding the use of the material or process.

(d) *Processing of application.* After evaluation of the data submitted with the application, the Director will make a decision regarding the acceptability of the proposed treatment in good commercial practice. The Director will notify the regional director (compliance) of the approval or disapproval of the application. The regional director (compliance) will then inform the proprietor of the Director's decision.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1383, as amended (26 U.S.C. 5381, 5382, 5385, 5386, and 5387))

Bottling, Packing, and Labeling of Wine

§ 24.255 Bottling or packing wine.

(a) *General.* Bottles or containers will be filled as nearly as possible to conform to the amount shown on the label or blown in the bottle or marked on the container; but in no event may the net contents of any bottle or container vary from the amount stated more than: 1.0 percent for 15.0 liters and above, 1.5 percent for 1.0 liter to 14.9 liters, 2.0 percent for 750 ml, 3.0 percent for 375 ml, 4.5 percent for 187 ml and 100 ml, and 9.0 percent for 50 ml. There will be substantially as many bottles or containers overfilled as there are bottles or containers underfilled for each lot of wine bottled or packed; however, the quantity of wine filled into bottles or containers, for each tax class, may not exceed 0.5 percent of the net contents stated on the bottles or containers during a consecutive three month period, calculated on the basis of the proprietor's fill test records. The proprietor is liable for the tax on the entire amount of a tax class removed, without benefit of tolerance, when the fill of bottles or containers for that tax class exceeds the tolerance for the three month period, or when filling is not conducted in compliance with good commercial practice. Short-filled bottles of wine which are sold or otherwise disposed of by the winery to its own employees for personal consumption need not be labeled, but, if labeled, need not show an accurate statement of net contents.

(b) *Fill tests.* The proprietor shall test at representative intervals wine bottled or packed during the bottling or packing operation to determine if the wine contained in the bottle or container is in agreement with that stated on the label, bottle, or container.

(c) *Alcohol tests.* The proprietor shall test the alcohol content by volume to determine the tax class of the wine and to ensure the alcohol content to be stated on the label is in agreement with the requirements of § 24.257.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5368))

§ 24.256 Bottle aging wine.

Wine bottled or packed and stored for the purpose of aging need not have labels affixed until the wine is removed for consumption or sale. However, the bins, pallets, stacks, cases or containers of unlabeled wine will be marked in some manner to show the kind (class and type) and alcohol content of the wine. If the unlabeled wine is stored at a location other than the bottling or packing winery, the registry number of the bottling or packing winery will also be shown.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1407, as amended (26 U.S.C. 5368, 5662))

§ 24.257 Labeling wine bottles or containers.

(a) The proprietor shall securely affix to each bottle or container of beverage wine prior to removal for consumption or sale a label showing:

(1) The name and address of the wine premises where bottled or packed;

(2) The brand name (the name and address required by (a)(1) of this section may be the brand name);

(3) The kind of wine. The designation as to kind will be shown as follows: (i) For wine requiring a label approval under 27 CFR Part 4, the class, type, or other designation provided in that Part. (ii) For wine labeled under an exemption from label approval, an adequate statement of composition may be the designation in lieu of the kind (class and type) stated in 27 CFR Part 4. (iii) For wine with less than 7 percent alcohol by volume, the word "wine" or the words "carbonated wine" if the wine contains more than 0.392 grams of carbon dioxide per 100 milliliters will appear as part of the brand name or in a phrase in direct conjunction with the brand name;

(4) The alcohol content as percent by volume or the alcohol content stated in accordance with 27 CFR Part 4. For wine with less than 7 percent alcohol by volume there will be allowed a tolerance of plus or minus 10 percent of the stated alcohol content; and

(5) The net content of the bottle or container unless the net content is permanently marked on the bottle or container as provided in 27 CFR Part 4.

(b) The information shown on any label applied to bottled or packed wine is subject to the recordkeeping requirements of § 24.315.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1407, as amended (26 U.S.C. 5368, 5388, 5662))

§ 24.258 Certificates of approval or exemption.

The proprietor shall obtain a certificate of label approval or a certificate of exemption from label approval as required by 27 CFR Part 4.

(August 29, 1935, ch. 814, Sec. 5, 49 Stat. 981, as amended (27 U.S.C. 205))

§ 24.259 Marks.

(a) *Required marks.* Each case or container used to remove wine for consumption or sale will be durably marked to show the following information:

(1) The serial number or filling date as provided in § 24.260;

(2) The name (or trade name) and the registry number of the bottling wine premises;

(3) The kind (class and type) and the alcohol content of the wine. The kind of wine and alcohol content will be stated in accordance with § 24.257. The formula number will be marked on containers of special natural wine or other wine produced under § 24.218;

(4) The net contents of the case or container in wine gallons or, for cases or containers filled according to metric measure, the contents in liters. If wine is removed in cases, the cases may be marked to show the number and size of bottles in each case in lieu of the net contents of the case; and

(5) Except for cases, the date of removal or shipment.

(b) *Application of marks.* Required marks may be cut, printed, or otherwise legibly and durably marked upon the case or container, or placed on a label or tag securely affixed to the case or container. Abbreviation of words may be used if the abbreviation is universally understood.

(c) *Location of marks.* Required marks will be placed on a container or on the side of a case for ready examination by ATF officers.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1387, as amended, 1407, as amended (26 U.S.C. 5368, 5388, 5662))

§ 24.260 Serial numbers or filling date.

All cases or containers used for removing wine for consumption or sale are to be marked with a serial number or filling date at the time the cases or

containers are prepared for removal. Serial numbers will commence with "1" and continue until the numeral "1,000,000" is reached, whereupon the series may recommence with the numeral "1." However, the proprietor may initiate a new series after the numeral "100,000" has been reached provided no numeral will be used more than once during a 12-month period. If desired, a separate series of numbers with letter prefixes may be used for containers and for cases, or for cases filled on different bottling lines, or for removals from different loading docks. The proprietor may mark the cases with the filling date in lieu of using a serial number or use both a serial number and the filling date. However, if the proprietor desires to change from the use of a serial number to use of a filling date, or *vice versa*, a notice will be sent to the regional director (compliance) before making the change. Where domestic or foreign wine is recased, the cases will be marked with the date of recasing, preceded by the letter "R", in lieu of a serial number or filling date.

(72 Stat. 1381; 26 U.S.C. 5367, 5368)

Subpart M—Losses of Wine

§ 24.265 Losses by theft.

The proprietor shall be liable for and pay the tax on wine unlawfully removed while on bonded wine premises, or while in transit thereto or therefrom in bond, unless the proprietor or other person responsible for the tax, establishes to the satisfaction of the regional director (compliance) that the theft did not occur as the result of connivance, collusion, fraud or negligence on the part of the proprietor or other person responsible for the tax or the owner, consignor, consignee, bailee, or carrier, or their agents or employees.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5370))

§ 24.266 Inventory losses.

(a) *General.* The proprietor shall take a physical inventory of all untaxpaid wine on-hand on bonded wine premises as of the close of business each tax year, or where a cycle different from the tax year has been established as provided in § 24.314, the inventory will be taken annually at the end of that cycle, or at any time required by an ATF officer. The physical inventory of bulk and bottled or packed wine will be recorded and reported as required by § 24.314.

(b) *Bulk wine losses.* The physical inventory of bulk wine will determine losses due to spillage, leakage, soakage, evaporation, and other losses normally occurring from racking and filtering since the previous physical inventory required by this section. A claim for allowance of loss, under the provisions of § 24.65, is required for inventory losses in production or storage: (1) where there are circumstances indicating that all or a part of the wine reported lost was unlawfully removed, or (2) where the loss on bonded wine premises during the annual period exceeds three percent of the aggregate volume of wine on-hand at the beginning of the annual period and the volume of wine received in bond during the annual period; or the loss exceeds six percent of the still wine produced by fermentation; or the loss exceeds six percent of the sparkling wine produced by fermentation in bottles; or the loss exceeds three percent of the special natural wine produced under § 24.195 or other wine produced under § 24.218; or the loss exceeds three percent of the artificially carbonated wine produced; or the loss exceeds three percent of the bulk process sparkling wine produced. The percentage applicable to each tax class of wine will be calculated separately, unless the calculation is impracticable because of the mixture of different tax classes by addition of wine spirits or blending during the annual period, in which case the percentage will be calculated on the aggregate volume. Wine removed immediately after production for use as distilling material and on which the usual racking, clarifying, and filtering losses are not sustained, will not be included in the calculations.

(c) *Bottle and container wine losses.* Wine filled into a bottle or container is not subject to losses due to spillage, leakage, soakage, evaporation, and other losses normally occurring from racking and filtering. In addition, wine that has been filled into a bottle or container can be accurately accounted for and any unexplained shortage is considered evidence of an unreported removal. Therefore, the proprietor shall pay the tax on any unexplained loss of untaxpaid bottled or packed wine disclosed by inventory or otherwise.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367, 5369, 5370))

§ 24.267 Losses in transit.

Where the loss of wine in transit of a shipment in bond or the total daily in bond shipments received from the same winery exceeds one percent (two percent on transcontinental shipments) of the volume shipped, the proprietor of the receiving bonded wine premises shall immediately notify the regional director (compliance) or nearest designated ATF officer and file a claim under the provisions of § 24.65.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5370))

§ 24.268 Losses by fire or other casualty.

The proprietor shall report any loss by fire or other casualty, or any other extraordinary or unusual loss, including a loss by theft, immediately to the regional director (compliance) or nearest designated ATF officer and file a claim under the provisions of § 24.65. The volume of wine loss will be reported on the ATF Form 5120.17 (702) for the month the loss occurred.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5370))

Subpart N—Removal, Return and Receipt of Wine

Taxpaid Removals

§ 24.270 Determination of tax.

The tax on wine is determined at the time of removal from bonded wine premises for consumption or sale. Section 5041 of Title 26, United States Code, imposes an excise tax, at the rates prescribed, on all wine (including imitation, substandard, or artificial wine, and compounds sold as wine, which contain 24 percent or less of alcohol by volume) produced in or imported into the United States. Wine containing more than 24 percent of alcohol by volume is classed as distilled spirits and taxed accordingly. The tax is determined and paid on the volume of wine:

(1) In bottles or containers filled according to U.S. measure; or,

(2) In bottles or containers filled according to metric measure, on the volume of wine in U.S. wine gallons; or

(3) In the case of pipeline removals, on the volume of bulk wine removed recorded to the nearest whole gallon, five-tenths gallon being converted to the next full gallon.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1331, as amended (26 U.S.C. 5041))

§ 24.271 Payment of tax by check, cash, or money order.

(a) *General.* Unless prepaid, the tax on wine is paid by a semi-monthly, quarterly, or annual Excise Tax Return, ATF F 5000.24, which is filed with remittance (check or money order) for the full amount of tax due. Prepayments of tax on wine during the period covered by the return are shown separately on the Excise Tax Return form.

(b) *Return periods.* Except for quarterly and annual returns filed under the provisions of § 24.273, return periods are from the 1st day of each month through the 15th day of that month, and from the 16th day of each month through

the last day of that month. The proprietor shall file a return, with remittance, for each return period no later than the last day of the return period next succeeding that period, excluding any Saturday, Sunday, or legal holiday in the District of Columbia, or any Statewide holiday of the State in which the return is required to be filed.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5061)

§ 24.272 Payment of tax by electronic fund transfer.

(a) *General.* (1) During a calendar year any taxpayer who is liable for a gross amount of wine excise tax equal to or exceeding $5 million combining tax liabilities incurred under this part and Parts 250 and 251 of this chapter, shall during the succeeding calendar year use a financial institution in making payment by electronic fund transfer (EFT) of wine taxes for that year. A taxpayer who is required by this section to make remittance by EFT may not effect payment of wine taxes by cash, check, or money order, as described in § 24.271.

(2) For the purposes of this section, the dollar amount of tax liability is defined as the gross tax liability on all taxable withdrawals and importations (including wines brought into the United States from Puerto Rico or the Virgin Islands) during the calendar year, without regard to any drawback, credit, or refund, for all premises from which the activities are conducted by the taxpayer.

(3) For the purposes of this section, a taxpayer includes a controlled group of corporations, as defined in 26 U.S.C. 1563 and implementing regulations in 26 CFR 1.1563–1–1.1563–4.

(4) The taxpayer who is required by this section to make remittances by EFT shall, for each bonded wine premises from which wine is withdrawn upon determination of tax, make a separate EFT remittance and file a separate tax return.

(b) *Requirements.* (1) On or before January 10 of each calendar year, except for a taxpayer already remitting the tax by EFT, each taxpayer who was liable during the previous calendar year for a gross amount of wine excise tax equal to or exceeding $5 million, combining tax liabilities incurred under this part and Parts 250 and 251 of this chapter, shall give written notice to the regional director (compliance) of each ATF region in which taxes are paid agreeing to make remittances by EFT.

(2) For each return filed in accordance with this subpart, the taxpayer shall direct the taxpayer's financial institution to make an electronic fund transfer in the amount of the tax payment to the Treasury Account as provided in paragraph (e) of this section. The request will be made to the financial institution early enough for the transfer of funds to be made to the Treasury account by no later than the close of business on the last day of the next succeeding return period, excluding any Saturday, Sunday, or legal holiday in the District of Columbia, or any Statewide holiday in the State of New York. The request will take into account any time limit established by the financial institution.

(3) If the taxpayer was liable during the preceding calendar year for less than $5 million in wine excise taxes, combining tax liabilities incurred under this part and Parts 250 and 251 of this chapter, the taxpayer may choose either to continue remitting the tax as provided in this section or to remit the tax with the return as prescribed by § 24.271. Upon filing the first return on which the taxpayer chooses to discontinue remittance of the tax by EFT and to begin remittance of the tax with the tax return, the taxpayer shall notify the regional director (compliance) by attaching a written notification to the tax form stating that no wine excise tax is due by EFT because the tax liability during the preceding calendar year was less than $5 million, and that the remittance will be filed with the tax return.

(c) *Remittance.* (1) The taxpayer shall show on the tax return information about remitting the tax for that return by EFT and shall file the return with the director of the service center, district director, or regional director (compliance) in accordance with the instructions on the tax form.

(2) Remittances will be considered as made when a taxpayer unconditionally directs the financial institution to effect immediately an electronic fund transfer in the amount of the taxpayment to the Treasury Account, in accordance with the procedures established by the financial institution.

(3) When the taxpayer directs the financial institution to effect an electronic fund transfer message as required by paragraph (b)(2) of this section, the transfer data record furnished to the taxpayer through normal banking procedures will serve as the record of payment, and will be retained as part of the required records.

(d) *Failure to request an electronic fund transfer.* The taxpayer is subject to a penalty imposed by 26 U.S.C. 5684, 6651, and 6656, as applicable, for failure to make a taxpayment by EFT on or before the close of business on the prescribed last day for filing.

(e) *Procedure.* Upon the notification required under paragraph (b)(1) of this section, the regional director (compliance) will issue to the taxpayer an ATF Procedure entitled, Payment of Tax by Electronic Fund Transfer. This publication outlines the procedure a taxpayer follows when preparing returns and EFT remittances in accordance with this subpart. The U.S. Customs Service will provide the taxpayer with instructions for preparing EFT remittances for payments to be made to the U.S. Customs Service for payment of excise tax on imported wine.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

§ 24.273 Exception to filing semi-monthly tax returns.

(a) Any proprietor who has paid less than $500 in wine excise tax during the previous calendar year may file the Excise Tax Return, ATF F 5000.24, and remittance, if any, within 15 days after the end of the calendar year instead of semi-monthly as required by § 24.271. However, if before the close of the current calendar year the wine excise tax owed will exceed $500 (or at any other subsequent $500 tax interval), the Excise Tax Return with remittance will be filed on that date and also within 15 days after the end of the calendar year.

(b) The proprietor who paid less than $5000 the previous calendar year in wine excise tax may file the Excise Tax Return and remittance, if any, within 15 days after the end of each calendar quarter of a calendar year instead of semi-monthly. However, if during a calendar quarter the wine excise tax owned will exceed $5000 (or at any other subsequent $5000 tax interval), the Excise Tax Return with remittance will be filed on that date and also within 15 days after the end of that calendar quarter.

(c) A proprietor who files tax returns under paragraphs (a) and (b) of this section is subject to the failure to pay or file provisions of § 24.274. The regional director (compliance) may deny the exceptions to filing tax returns in this section at any time.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1335, as amended (26 U.S.C. 5061))

§ 24.274 Failure to timely pay tax or file a return.

Penalties for failure to pay tax at the time required, for willful refusal to pay the tax and for fraudulent nonpayment of tax are provided for in 26 U.S.C. 5661 and 6656. In addition to these penalties, there is a penalty for the delinquent filing of a tax return, imposed as an addition to the tax shown on the return.

amounting to five percent for each month or fraction thereof of the delinquency, not exceeding 25 percent in the aggregate, unless it is shown that the deli iquency is due to reasonable cause and not to willful neglect.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1407, as amended, 1410, as amended (26 U.S.C. 5661, 5684, 6651, 6656))

§ 24.275 Prepayment of tax.

(a) *General.* The proprietor shall, before removal of wine for consumption or sale, file Excise Tax Return, ATF F 5000.24, with remittance, where (1) required to prepay tax under § 24.276; or, (2) the tax deferral bond is not in the maximum penal sum and the tax determined and unpaid at any one time exceeds the penal sum of the bond by more than $100; or, (3) there is no approved tax deferral bond and the total amount of tax unpaid at any one time exceeds $500. The return with remittance is forwarded pursuant to the instructions printed on the return. For the purpose of complying with this section, the term "forwarding" means deposit in the U.S. mail properly addressed to the Internal Revenue Service.

(b) *Electronic fund transfer.* When the proprietor is required by § 24.272 to deliver payment of tax by electronic fund transfer, the proprietor shall prepay the tax before any wine can be removed for consumption or sale by (1) completing the Excise Tax Return and by mailing it, as instructed on the form, to the director of the service center, district director, or regional director (compliance) and (2) by directing the proprietor's financial institution to effect an electronic fund transfer.

(August 16, 1954, ch. 736, 68A Stat. 775, as amended, 777, as amended, 391, as amended (26 U.S.C. 6301, 6311, 6302))

§ 24.276 Prepayment of tax; proprietor in default.

When the proprietor fails to forward a payment for wine excise tax due by presentment of a check or money order, or when the proprietor is otherwise in default of payment of the tax, no wine may be removed for consumption or sale until the tax has been paid for the period of the default and until the regional director (compliance) finds the revenue will not be jeopardized by the late payment of the tax. Any remittance made during the period of the default will be in cash, or will be in the form of a certified, cashier's, or treasurer's check drawn on any financial institution incorporated under the laws of the United States, or under the laws of any State, territory, or possession of the United States, or in the form of a money order, as provided in 26 CFR 301.6311–1 (payment by check or money order) or in the form of an electronic fund transfer.

(August 16, 1954, ch. 736, 68A Stat. 775, as amended, 777, as amended, 391, as amended (26 U.S.C. 6301, 6311, 6302))

§ 24.277 Date of mailing and delivering of returns.

(a) When the proprietor sends the Excise Tax Return, ATF F 5000.24, with or without remittance, by U.S. mail, the official postmark of the U.S. Postal Service stamped on the cover of the envelope in which the return was mailed is considered the date of delivery of the tax return and, if accompanied, the date of delivery of the remittance. When the postmark on the cover is illegible, it is the proprietor's responsibility to prove when the postmark was made.

(b) When the proprietor sends the tax return by registered mail or by certified mail, the date of registry or the date of the postmark on the sender's receipt of certified mail, as the case may be, is treated as the date of delivery of the tax return and, if accompanied, the remittance.

(August 16, 1954, ch. 736, 68A Stat. 775, as amended, 777, as amended, 391, as amended (26 U.S.C. 6301, 6311, 6302))

Transfer of Wine in Bond

§ 24.280 General.

Wine may be removed for transfer in bond, from one bonded wine premises to another bonded wine premises or to a distilled spirits plant. For bulk wine transferred in bond between adjacent or contiguous bonded wine premises or to an adjacent or contiguous distilled spirits plant, an accurately calibrated tank for measuring the wine is required on at least one of the premises. The volume of wine transferred will be recorded to the nearest whole gallon, five-tenths gallon being converted to the next full gallon.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended, 1395, as amended (26 U.S.C. 5362, 5552))

§ 24.281 Consignor premises.

Prior to transferring wine in bond, the proprietor shall prepare the transfer record prescribed by § 24.309. Except as provided in § 24.282, a transfer record will be prepared for each shipment. On completion of lading (or completion of transfer by pipeline), the proprietor shall retain one copy of the transfer record for the files and forward the original and one copy of the transfer record to the consignee (to accompany the shipment, if by truck). Upon receipt of a signed copy from the consignee, the file copy of the transfer record may be discarded. The signed copy of the transfer record will be maintained as a record of removal as required by Subpart O of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

§ 24.282 Multiple transfers.

(a) *Truck.* The proprietor may use one transfer record for all wine shipped by truck on the same day to other premises. The proprietor shall prepare a shipment or delivery order for each shipment showing date of transfer, name and address of the proprietor and consignee, number of cases or containers, serial numbers of cases (if any) of container identification marks, and quantity shipped in gallons or liters. A copy of the shipping or delivery order will be retained by the proprietor and a copy sent with the shipment. On completion of lading the last truck for the day, the proprietor shall prepare and process a transfer record as provided in § 24.281.

(b) *Pipeline.* The proprietor may use one transfer record for all wine (including distilling material and vinegar stock) transferred by pipeline to adjacent premises during a month. The proprietor shall prepare a record for each transfer showing date of transfer, name and address of the proprietor and consignee, and quantity transferred in gallons or liters. At the end of the month, the proprietor shall prepare and process a transfer record as provided in § 24.281.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

§ 24.283 Reconsignment.

Where, prior to or on arrival at the premises of a consignee, wine transferred in bond is not accepted by the consignee, or by a carrier, the wine may be reconsigned by the proprietor. The bond of the proprietor to whom the wine is reconsigned will cover the wine while in transit after reconsignment. Notice of cancellation of the shipment will be made to the consignee by the proprietor who shipped the wine. Where reconsignment is to other than the shipping proprietor, a new transfer record prominently marked "Reconsignment" will be prepared and and processed as provided by § 24.281.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

§ 24.284 Consignee premises.

When wine is received by transfer in bond, the consignee shall check the shipment against the transfer record and determine by volumetric measure or weight the quantity received. The date received and, if different from the

quantity shipped, the quantity received will be recorded on the transfer record. Sealed containers and cases received without apparent loss need not be measured or weighed. The consignee will retain the original of the transfer record and send the copy to the consignor. The retained copy of the transfer record will be maintained as a record of receipt as required by Subpart O of this part.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

Removals Without Payment of Tax

§ 24.290 Distilling material.

(a) *General.* Still wine may be removed without payment of tax to the production facilities of a distilled spirits plant for use as distilling material in the distillation of spirits. The volume of distilling material may be determined at either the bonded wine premises or the distilled spirits plant.

(b) *Formula wine.* Unmarketable formula wine may be removed to a distilled spirits plant for use as distilling material in the production of wine spirits (but not brandy). Where sugar has been used in the production of formula wine, the wine may not be removed for use as distilling material if the unfermented sugars therein have been fermented prior to the removal. If wine spirits produced from formula wine contain any flavor characteristics of the formula wine, the wine spirits may be used only in the production of a formula wine.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended, 1382, as amended 1395, as amended (26 U.S.C. 5362, 5373, 5552))

§ 24.291 Vinegar.

(a) *General.* Where the proprietor is also the proprietor of a vinegar plant located adjacent or contiguous to bonded wine premises, still wine may be removed free of tax for use in the manufacture of vinegar upon the filing of ATF Form 5000.18 (1533), Consent of Surety, extending the terms of the wine bond to cover the removal and use of wine in the manufacture of vinegar. The proprietor of a vinegar plant filing ATF Form 5510.2 (1676), Bond Covering Removal to & Use of Wine at Vinegar Plant, may have wine shipped thereto, free of tax, for use in the manufacture of vinegar. Still wine which has acetified and contains not less than four percent of acetic acid by volume may also be removed, free of tax, for use as vinegar.

(b) *Vinegar plant records.* Each proprietor of a vinegar plant to which wine is shipped, free of tax, for use in the manufacture of vinegar shall keep a record of all wine received and used for the manufacture of vinegar and of all vinegar produced and disposed of. The record will show the following information:

(1) The volume and alcohol content of all wine received, the date of receipt, and the name, registry number, and address of the bonded wine premises from which received;

(2) The volume and alcohol content of all wine used in the manufacture of vinegar, and the date of use;

(3) The volume and grain strength of the vinegar produced, and the date of production. (This volume will be reported on a 100-grain strength basis and will be determined by multiplying the wine gallons of vinegar produced by the grain strength thereof and dividing the rest by 100); and

(4) The names and addresses of all persons to whom vinegar is shipped, the volume and grain strength shipped to each, and the date of shipment. (Grain strength is a measure of the acetic content of vinegar, expressed as 10 times the grams of acetic acid per 100 ml).

(c) *Inspection of vinegar plants.* The proprietor of a vinegar plant receiving wine, free of tax, for use in the manufacture of vinegar shall make the premises and records available for inspection by ATF officers during regular business hours.

(August 16, 1954, ch. 736, 68A Stat. 903, as amended (26 U.S.C. 7606); Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

§ 24.292 Exported wine.

(a) *General.* Wine may be removed from a bonded wine cellar without payment of tax for exportation, for use on vessels and aircraft, for transportation to and deposit in a "Class 6" manufacturing bonded warehouse, for transfer to and deposit in a customs bonded warehouse, and for transfer to and deposit in a foreign-trade zone for exportation or for storage pending exportation. Removals of wine for export will be in accordance with the procedures in Part 252 of this chapter.

(b) *Return of wine to bonded storage.* Wines which have been lawfully withdrawn, without payment of tax, under the provisions of Part 252 of this chapter may be returned to bonded wine premises from which withdrawn for storage pending subsequent removal for lawful purposes. On return of wine to bonded wine premises, the proprietor shall record the receipt showing the gallonage of each tax class received and returned to storage on bonded wine premises and shall report the return on the ATF Form 5120.17 (702), Monthly Report of Wine Cellar Operations, for the month with an explanatory notation. All provisions of this part applicable to wine in bond at bonded wine premises and to removals from bond are applicable to returned wine.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended (26 U.S.C. 5361, 5362))

§ 24.293 Wine for Government use.

(a) *General.* Wine may be removed from bonded wine premises, free of tax, for use of the Government of the United States, or any agency thereof, upon receipt of a proper Government order signed by the office in charge of the department, institution, station, or similar establishment, to which the wine is to be shipped or other officer duly authorized to sign the order. Wine may also be removed for use by the governments of the several states and the District of Columbia, or of any subdivision thereof, or by any agency of the governments, free of tax, from bonded wine cellars for analysis, testing, research or experimentation.

(b) *Bill of lading and report of shipment.* Where wine is shipped by common carrier, the proprietor shall return a copy of the bill of lading, covering the shipment, with the ATF Form 5120.17 (702), Monthly Report of Wine Cellar Operations, for the month in which the shipment is made. The bill of lading will show the name and address of the agency to which the wine is shipped, identifying marks on containers or cases, and alcohol content of the wine. The governmental order, or a copy of the order, will be filed at the bonded wine premises available for inspection by ATF officers.

(Sec 201, Pub. L. 85–859, 72 Stat. 1380, as amended, 1381, as amended (26 U.S.C. 5362, 5367))

§ 24.294 Destruction of wine.

(a) *General.* Wine on bonded wine premises may be destroyed on or off wine premises by the proprietor without payment of tax. A proprietor who desires to destroy wine on or off wine permises shall file with the area supervisor an application stating the kind, alcohol content, and approximate volume of wine to be destroyed, where the wine is to be destroyed, and the reason for destruction. Wine to be destroyed will be inspected and the destruction supervised by an ATF officer, unless the area supervisor authorizes the proprietor to destroy the wine without inspection and supervision. The wine may not be destroyed until the proprietor has received authority from the area supervisor.

(b) *Record of destruction.* The proprietor shall maintain a record of the volume destroyed and include the quantity on the ATF Form 5120.17 (702), Monthly Report of Wine Cellar Operations. If part of the volume of the material destroyed is not wine, the volume destroyed will be reported on the basis of actual wine content of the material, excluding any dilution by water or other substance.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367, 5370))

Return of Taxpaid Wine to Bond

§ 24.295 Return of Taxpaid wine to bond.

(a) *General.* Domestically produced wine which has been taxpaid, removed from bonded wine premises, and is subsequently determined to be unmerchantable may be returned to bonded wine premises for reconditioning or destruction. The tax paid on the wine may, when the wine is returned to bond, be refunded or credited, without interest, to the proprietor of the bonded wine cellar to which the wine is delivered. However, no tax paid on any wine for which a claim has been or will be made under the provisions of Subpart O of Part 170 of this chapter will be refunded or credited. If the tax on the wine has been determined but not paid, the person liable for the tax may, when the wine is returned to bond, be relieved of the liability. Claims for refund or credit, or relief from liability, of tax paid or determined on wine returned to bond are filed in accordance with § 24.66.

(b) *Receipt.* The amount of unmerchantable taxpaid wine returned to bond is determined upon receipt on bonded wine premises. The quantity determined will be entered on the ATF Form 5120.17 (702), Monthly Report of Wine Cellar Operations, for the month during which the wine is returned.

(c) *Records.* The proprietor shall maintain records covering each lot of unmerchantable taxpaid wine returned to bond in accordance with § 24.311.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1332, as amended, 1382, as amended (26 U.S.C. 5044, 5371))

Taxpaid Wine Operations

§ 24.296 Taxpaid wine operations.

(a) *General.* The proprietor may conduct taxpaid wine operations authorized by § 24.102 in an area designated as taxpaid wine premises at a bonded winery or bonded wine cellar, or at a taxpaid wine bottling house. Any taxpaid wine operations will be separate from all nontaxpaid wine operations and taxpaid wine will be clearly identified as provided in § 24.135. The regional director (compliance) may require any additional segregation and identification of taxpaid wine operations as deemed necessary to protect the revenue.

(b) *Treatment.* Taxpaid wine may be treated with sulfur dioxide compounds, refrigeration or pasteurization and may also be preserved, filtered or clarified by the use of methods or materials which will not change the basic character of the wine. The proprietor who desires to treat wine in any manner (other than by simple filtration or the use of sulfur compounds, refrigeration or pasteurization) shall first file with the regional director (compliance) an application giving the details of the proposed treatment. The proprietor may not use the treatment prior to approval. The proprietor may incur civil or criminal liability for using an unauthorized treatment of taxpaid wine. Wine of the same kind (class, type, or national origin) and tax class may be mixed to facilitate handling; otherwise, the blending of taxpaid wine is prohibited. Also, water may not be added to the taxpaid wine.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1407 (26 U.S.C. 5352, 5661))

Subpart O—Records and Reports

§ 24.300 General.

(a) *Records and reports.* A proprietor who conducts wine operations shall maintain wine transaction records and submit reports as required by this part. Transaction records may be recorded in wine gallons or in liters. However, required reports submitted to the regional director (compliance) will show wine volumes in wine gallons. The equivalent wine gallons of wine bottled and labeled according to metric measure will be determined using the following conversion factors:

(1) Per case. Equivalent gallonage may be determined using the following conversion factors for cases of metric bottles:

Bottles per case	Net content each bottle	Equivalent gallonage
120	50ml	1.58502
60	100ml	1.58502
48	187ml	2.37119
24	375ml	2.37753
12	750ml	2.37753
12	1 liter	3.17004
6	1.5 liter	2.37753
4	3 liter	3.17004

(2) Per liter. Equivalent gallonage may be determined by multiplying total liters by a conversion factor of 0.26417 gallons per liter.

(b) *Time of making entries.* Any operation or transaction is to be entered in records or commercial papers at the time the operation or transaction occurs, except that where records are posted from source records or from supplemental auxiliary records prepared at the time the operation or transaction occurs, entries in another record may be deferred to not later than the close of business of the third business day succeeding the day on which the operation or transaction occurs. The proprietor shall retain all source records and all supplemental or auxiliary records which support entries in other records or commercial papers in order to facilitate verification of operations by ATF officers. Source records and supplemental or auxiliary records may be used as the record of an operation or transaction and to prepare the ATF Form 5120.17 (702), Monthly Report of Wine Cellar Operations, provided the record will readily allow for verification of an operation or transaction by ATF officers.

(c) *Prescribed forms.* All reports required by this part are to be submitted on forms prescribed by the Director. Entries will be made as indicated by the headings of the columns and lines and as required by the instructions on the form. Report forms filed with the regional director (compliance) are furnished free of cost.

(d) *Period of retention.* All prescribed returns, reports and records (including source records) will be retained by the proprietor for a period of not less than three years from the record date or the date of the last entry required to be made in the record, whichever is later. However, the regional director (compliance) may require records to be kept an additional period not exceeding three years in any case where retention is determined to be necessary.

(e) *Data processing.* (1) Notwithstanding any other provision of this section, data maintained on data processing equipment may be kept at a location other than the wine premises if the original operation or transaction source records required by this subpart are kept available for inspection at the wine premises.

(2) Data which has been accumulated on cards, tapes, discs, or other accepted recording media will be retrievable within five business days.

(3) The applicable data processing program will be made available for examination if requested by an ATF officer.

(f) *ATF Form 5120.17 (702), Monthly Report of Wine Cellar Operations.* A proprietor who conducts wine operations shall summarize transaction entries and submit an ATF Form 5120.17

(702) to the regional director (compliance) in accordance with instructions on the form. If the proprietor does not expect an inventory change or any reportable operations to be conducted in a subsequent month or months, a statement may be attached to the ATF Form 5120.17 (702) filed that, until a change in the inventory or a reportable operation occurs, an ATF Form 5120.17 (702) will not be filed. The information reported on the ATF Form 5120.17 (702) will be maintained in accordance with the requirements of this part. Any fractional parts of a gallon will be expressed in decimals to the nearest one-tenth gallon, five-hundredths gallon being converted to the next full one-tenth gallon.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

§ 24.301 Bulk still wine record.

A proprietor who produces or receives still wine, (including wine intended for use as distilling material or vinegar stock to which water has not yet been added) shall maintain records of transactions for bulk still wine. Records will be maintained for each tax class of still wine including the date the transaction occurred. The bulk still wine record will contain the following:

(a) The volume produced by fermentation in wine gallons determined by actual measurement;

(b) The volume received, shipped taxpaid, removed (e.g., taxpaid, in bond, export, family use, samples) and used in sparkling wine production;

(c) The specific type of production method used, e.g., natural fermentation, sweetening, addition of spirits, amelioration, blending;

(d) The volume of wine used and produced by sweetening, amelioration, or addition of spirits as determined by measurements of the wine before and after production;

(e) The volume of wine used for and produced by blending if wines of different tax classes are blended together;

(f) The volume of wine used to produce vinegar stock and distilling material;

(g) The volume of wine removed to fermenters for refermentation or removed directly to the production facilities of a distilled spirits plant or vinegar plant;

(h) Where a process authorized under § 24.248 is employed, records will be maintained to allow for verification of any limitation specified for the process employed and to ensure that the use of the process is consistent with good commercial practice;

(i) Where a treating material is dissolved or dispersed in water as authorized in this part, the volume of water and treating material added to the wine; and

(j) An explanation of any unusual transaction.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

§ 24.302 Effervescent wine record.

A proprietor who produces or receives sparkling wine or artificially carbonated wine shall maintain records showing the transaction date and details of production, receipt, storage, removal, and any loss incurred. Records will be maintained for each specific process used (bulk or bottle fermented, artificially carbonated) and by the specific kind of wine, e.g., grape, pear, cherry. The record will contain the following:

(a) The volume of still wine filled into bottles or pressurized tanks prior to secondary fermentation or prior to the addition of carbon dioxide;

(b) The quantity of any first dosage used;

(c) Any in-process bottling losses, e.g., refilling, spillage, breakage;

(d) The volume of bottle fermented sparkling wine in process, transferred and received;

(e) The volume returned to still wine;

(f) The quantity of any finishing dosage used;

(g) The volume of finished sparkling wine or artificially carbonated wine bottled or packed (amount produced);

(h) The quantity of each item used in the production of dosages, e.g., wine, sugar, spirits; and

(i) An explanation of any unusual transaction.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

§ 24.303 Formula wine record.

A proprietor who produces formula wine shall maintain records showing by transaction date the details of production. The formula wine record will contain the following:

(a) A number for each lot produced;

(b) The approved formula number for each lot;

(c) The volume of wine used in the production;

(d) The volume produced and the gain or loss resulting from the production of each lot as determined by comparing the volume finished with the volume used (report the total monthly loss or gain on the ATF Form 5120.17 (702));

(e) An explanation of unusual loss or gain;

(f) The production of essences showing the formula number, quantities of spirits and herbs used, and the amount produced;

(g) The quantity of essences purchased, and the use, transfer or other disposition of essences produced or purchased; and

(h) A record of the receipt and use or other disposition of all herbs, aromatics, essences, extracts, or other flavoring materials used in the production of formula wine.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

§ 24.304 Chaptalization and amelioration record.

(a) *General.* A proprietor who chaptalizes juice or ameliorates juice or wine, or both, shall maintain a record of the operation and the transaction date. Records will be maintained for each kind of wine produced (grapes, fruit, or berry). No form of record is prescribed, but the record maintained will contain the information necessary to enable ATF officers to readily determine compliance with amelioration limitations. All quantities will be recorded in wine gallons, and, where pure sugar is used, the quantity will be determined either by measuring the increase in volume or by considering that each 13.5 pounds of pure sugar results in a volumetric increase of one gallon. If juice is chaptalized and subsequently this juice or wine is ameliorated, the quantity of pure sugar added to juice will be included as ameliorating material. The record will include the following:

(1) The volume of juice (exclusive of pulp) deposited in fermenters;

(2) The maximum volume of ameliorating material to which the juice is entitled, as provided in § 24.178;

(3) The volume of ameliorating or chaptalizing material used, including sugar used for adjustment of the total solids; and

(4) The volume of material authorized but not yet used.

(b) *Supporting records.* The amelioration record will show the basis for entries and calculations, including determination of the natural fixed acid level and total solids content of juice, as applicable. The records are maintained on the basis of annual accounting periods, with each period commencing on July 1 of a year and ending on the following June 30, except the record for an accounting period may be continued after June 30, where the juice or wine included therein is to be held after that date for completion. When the amelioration of wine included in the record for one accounting period is complete, the record is closed and any

unused amelioration material may not be used. Wines included in the records for different accounting periods may not be mixed with each other until the amelioration of both wines is complete.

(c) *Variation.* Notwithstanding the provisions of paragraph (b) of this section prohibiting the mixing of wines included in the records for different accounting periods, the proprietor may mix wines before amelioration of the wine is completed. However, the proprietor shall additionally maintain records necessary to establish the quantity of unused authorized material to which the resultant mixture would be entitled so that ATF officers may readily ascertain compliance with amelioration limitations.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1385, as amended (26 U.S.C. 5367, 5384))

§ 24.305 Sweetening record.

A proprietor who sweetens natural wine with sugar under the provisions of this part shall maintain a record of sweetening by transaction date. The record will contain the following:

(a) The gallons and degrees Brix of the wine before sweetening;

(b) The gallon equivalent of pure sugar that would be required to sweeten the volume of wine to its maximum authorized total solids content;

(c) The quantity of sugar used for sweetening; and

(d) The gallons and degrees Brix of the wine produced by sweetening.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

§ 24.306 Distilling material or vinegar stock record.

A proprietor who produces or receives wine containing excess water which will be used expressly as distilling material or vinegar stock shall maintain a record by transaction date showing the amount and kind produced, received, from whom received, removed, and to whom sent. The proprietor shall keep a record of each type of material from which the distilling material or vinegar stock was fermented (e.g., grape, fruit, berry). The volume of distilling material or vinegar stock produced, including wine lees refermented for use as distilling material, will be recorded upon removal from fermented tanks. However, the provisions of this section do not apply to standard wine or unwatered wine lees recorded on the proprietor's record of bulk still wine and removed for use as distilling material or vinegar stock.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

§ 24.307 Nonbeverage wine record.

A proprietor who produces nonbeverage wine shall maintain a record by transaction date of each formula number produced and withdrawn as follows:

(a) The kind, volume, and percent alcohol by volume of wine, or wine products made from wine, which was rendered unfit for beverage use;

(b) The kind and quantity of materials received and used to render wine, or wine products made from wine, unfit for beverage use;

(c) The name, volume, percent alcohol by volume, and formula number of each nonbeverage wine or wine product produced;

(d) The volume, percent alcohol by volume, and formula number of nonbeverage wine removed; and

(e) The name and address of the consignee if the removal is more than five wine gallons or two cases, or if the nonbeverage wine is shipped for resale.

When the proprietor sends nonbeverage wine free of tax to an adjacent or contiguous premises operated by the proprietor, records required by paragraphs (d) and (e) of this section will be maintained at each location.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

§ 24.308 Bottled or packed wine record.

A proprietor who bottles, packs, or receives bottled or packed wine in bond shall maintain a record, by tax class, as follows:

(a) The date, kind of wine, and volume of wine bottled or packed, received in bond, returned to bond, and removed, e.g., taxpaid removals, in bond removals, dumped to bulk or destroyed, breakage, used for tasting. The number and size of bottles or containers filled will be shown in the record and will determine the volume bottled or packed. The volume recorded as bottled for bottle fermented sparkling wine is determined after the disgorging and refilling process.

(b) The label used on bottles or containers will be shown in the record by using the "Applicant's Serial No." which appears as item 2 on the label approval form, ATF Form 5100.31 (1649).

(c) The record of fill tests and alcohol tests required by § 24.255 will be maintained for each lot of wine bottled or packed showing the date, type of test, item tested and the test results.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

§ 24.309 Transfer in bond record.

A proprietor who transfers wine in bond shall prepare a transfer record. The transfer record will show:

(a) The name, address and registry number of the proprietor;

(b) The name, address and registry number of the consignee;

(c) The shipping date;

(d) The kind of wine (class and type);

(e) The alchohol content or the tax class;

(f) The number of cases or containers;

(g) The serial numbers of cases (if any);

(h) Any container identification marks;

(i) The volume shipped in gallons or liters;

(j) The serial number of any seal used;

(k) For unlabeled bottled or packed wine, the registry number of the bottler or packer;

(l) Information necessary for compliance with § 24.315, e.g., the varietal, vintage, appellation of origin designation of the wine or any other information that may be stated on the label; and

(m) Information as to any added substance or cellar treatment for which a label declaration is required for the finished product, or any other cellar treatment for which limitations are prescribed in this part, e.g., amount of decolorizing material used, quantity of ameliorating material used.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

§ 24.310 Taxpaid removals from bond record.

A proprietor removing wine from bond for consumption or sale on determination of tax shall maintain a record of wine removed at the time of removal either to taxpaid wine premises or for direct shipment. The record will show the date of removal, the name and address of the person to whom shipped, and the volume, kind (class and type) and alcohol content of the wine. The proprietor who removes taxpaid bulk wine to another wine premises shall prepare the shipping record and follow the procedures prescribed by § 24.281. The volume of wine removed taxpaid will be summarized daily by tax class. If the wine is not sold for resale or shipped for sale, the name and address of the person to whom sold or shipped may be omitted from the record. On sales of not more than one case or one demijohn, the name and address of the consignee need not be recorded.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

§ 24.311 Taxpaid wine record.

A proprietor who has taxpaid wine premises shall maintain records as follows:

(a) *Record of receipts.* (1) The name and address of the person or wine premises from whom received;

(2) The registry number (if any) of the wine premises from which received;

(3) The date of receipt;

(4) The kind of wine (class, type and, in the case of foreign wine, country of origin);

(5) Alcohol content or tax class of the wine; and,

(6) The volume of wine received in gallons.

(b) *Record of removals.* (1) The name and address of the person to whom removed; however, on sales of not more than one case or one demijohn made direct to consumers the name and address of the consignee need not be shown;

(2) The date of removal;

(3) The kind of wine (class, type and, in the case of foreign wine, country of origin); and

(4) The volume of wine shipped in gallons.

(c) *Record of cases or containers filled.* (1) The date the cases or containers were filled;

(2) The kind (class, type and, in the case of foreign wine, country of origin) of wine bottled or packed;

(3) The number of the tank used to fill the bottles or containers;

(4) The size of bottles or containers and the number of cases or containers filled;

(5) The serial number or date of fill marked on the cases or containers filled; and

(6) The total volume of wine bottled or packed in liters or wine gallons.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

§ 24.312 Taxpaid wine returned to bond record.

A proprietor shall maintain a record of any unmerchantable taxpaid wine returned to bond as follows:

(a) The kind, volume, and tax class of the wine;

(b) With regard to each tax class, the amount of tax previously paid or determined;

(c) The location of the wine premises at which the wine was bottled or packed and, if known, the identity of the bonded winery or bonded wine cellar from which removed on determination of tax;

(d) The date the wine was returned to bond;

(e) The serial numbers or other identifying marks on the cases or containers in which the wine was received; and

(f) The final disposition of the wine.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

§ 24.313 Reconditioned foreign wine record.

A proprietor shall maintain a record of any taxpaid foreign wine received on taxpaid wine premises for reconditioning as follows:

(a) The name and address from whom the wine is received;

(b) The date of receipt and the kind, volume, and tax class of the wine received;

(c) The serial numbers or other identifying marks of the cases or containers in which the wine is received;

(d) The date of reconditioning; and the volume and tax class of the wine reconditioned;

(e) The name and address of the person to whom the reconditioned wine is shipped; and

(f) The date of shipment and the kind (class, type, and, in the case of foreign wine, country of origin), volume, and tax class of the wine shipped.

If the information required in regard to receipts and shipments is shown or the taxpaid wine record, the record of reconditioning need not include information as to receipt and disposition of the wine.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

§ 24.314 Inventory record.

A proprietor shall prepare a record of the physical inventory of all wine and spirits in storage at the close of business for each tax year, or where a different cycle has been established, the inventory will be taken at the end of that annual period. (Proprietors may begin with an annual inventory period different from the period beginning on July and ending on June 30 (tax year); however, if the proprietor wants to change an inventory period, a notice will be submitted to the regional director (compliance)). The inventory record will be retained on file with the proprietor's ATF Form 5120.17 (702), Monthly Report of Wine Cellar Operations, for the month the inventory was taken. If at other times a complete inventory of all wine is taken, losses disclosed will be reported on the ATF Form 5120.17 (702) and the inventory record will also be retained on file with the report for that month. The proprietor's inventory record will include:

(a) *Description of wine.* (1) State the generic name (e.g., port, claret) or designated as a white, rose or red table or dessert wine; or

(2) Wine intended to be marketed with a vintage date, varietal name, or geographical designation will be appropriately identified, e.g., 1977 Napa Valley Pinot Noir; and

(3) If the wine is other than grape wine, state the type, e.g., orange, honey.

(b) *Bulk containers.* Tanks containing wine will be listed by tank number. Bulk containers which are barrels or puncheons containing the same kind of wine may be summarized, e.g., 10 barrels-red table wine 500 gals.;

(c) *Cases, containers and bottles.* The total volume of one kind of wine in cases, containers and bottles may be entered as one item and appropriately identified;

(d) *Inventory summary.* The volume of bulk and bottled or packed wine will be totaled separately in wine gallons or in liters, by tax class, and reported on the ATF Form 5120.17 (702). Spirits will also be totaled and reported on the ATF Form 5120.17 (702); and

(e) *Inventory record.* All inventory pages will be numbered consecutively and the last inventory page will be dated and signed after the statement, "Under penalties of perjury, I declare that I have examined this inventory record and to the best of my knowledge and belief, it is a true, correct and complete record of all wine and spirits required to be inventoried."

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367, 5369))

§ 24.315 Label information record.

A proprietor who removes bottled or packed wine with information stated on the label (e.g., varietal, vintage, appellation of origin, analytical data, date of harvest) shall have complete records so that the information appearing on the label may be verified by an ATF audit. A wine is not entitled to have information stated on the label unless the information can be readily verified by a complete and accurate record trail from the beginning source material received or initial operation conducted to removal of the wine for consumption or sale. All records necesssary to verify wine label information are subject to the record retention requirements of § 24.300(d).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

§ 24.316 Materials received and used record.

(a) *General.* A proprietor who produces wine shall maintain a record showing the receipt and use or other disposition of basic winemaking

materials received on wine premises. The record will show the date of receipt, the quantity received, the name and address from whom received, and the date of use or other disposition of the materials. For any material stored off wine premises, invoices or other commercial papers covering the purchase will also be kept available for inspection. Where grapes (or other fruit) received on wine premises are used in producing juice to be stored for future use or for removal, the record will show the quantity used and juice produced.

(b) *Concentrated fruit juice.* When concentrated fruit juice or must is produced or received, the record will show the degrees Brix of the juice before and after concentration, the maximum volume of water authorized to restore one gallon of concentrated juice, the volume of juice before and after reconstitution, the volume of reconstitution water used, and, if volatile fruit flavor was added, the kind and volume. Where fruit or juice is used to produce concentrated juice, the record will also show the quantity of fruit or volume of juice used. If the concentrated fruit juice is removed for use by another proprietor, a copy of the certificate required by § 24.180 will be retained. The record of concentrated fruit juice will contain the information necessary to determine compliance with the limitations prescribed in § 24.180. Incomplete or inaccurate records of concentrated fruit juice may result in the wine produced from the concentrated juice to be designated substandard.

(c) *Volatile fruit-flavor concentrate.* If volatile fruit-flavor concentrate is received, the record will show the volume received, the fold, the percent of alcohol by volume, any loss in transit, and the use or other disposition of the volatile fruit-flavor concentrate.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

§ 24.317 Spirits record.

A proprietor who receives, stores, or uses spirits shall maintain a record of receipt and use. The record will show the date of receipt, from whom received, and the kind and proof gallons. The spirits record will also show by date and proof gallons the spirits used or removed from bonded wine premises and to whom. The proof gallons of spirits received, used, removed from bonded wine premises, and on hand will be summarized and the account balanced at the end of each month and reported on the ATF Form 5120.17 (702).

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended, 1382, as amended, 1383, as amended (26 U.S.C. 5367, 5373))

§ 24.318 Sugar record.

A proprietor who receives, stores, or uses sugar shall maintain a record of receipt and use. The record will show the date of receipt, from whom received, and the kind and quantity. Invoices covering purchases will be retained. When sugar is used for chaptalization, amelioration or sweetening, the record will show the date, kind, and quantity used. The sugar record will also show sugar used in the production of allied products and any sugar removed from the wine premises. At the close of each month the account will be balanced and the quantity of each kind of sugar remaining on hand will be shown.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

§ 24.319 Acid record.

A proprietor who adds acid to correct a natural deficiency in juice or wine or to stabilize wine shall maintain a record showing date of use, the kind and quantity of acid used, the kinds and volume of juice or wine in which used, and the fixed acid level of juice or of wine before and after the addition of acid. The record will account for all acids received and be supported by purchase invoices.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

§ 24.320 Carbon dioxide record.

A proprietor who uses carbon dioxide in still wine shall maintain a record of the laboratory tests conducted to establish compliance with the limitations prescribed in § 24.245.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

§ 24.321 Chemical record.

A proprietor who uses chemicals, preservatives, or other such materials shall maintain a record of the purchase, receipt and disposition of these materials. The record will show the kinds and quantities received, the date of receipt, and the names and addresses from whom, purchased. A record of use in juice or wine of any of these materials, except for filtering aids, inert fining agents, and oxygen, will be maintained, showing the kind, quantity, and date of use, and kind and volume of juice or wine in which used.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

§ 24.322 Activated carbon record.

A proprietor who treats juice, white wine, pale dry sherry, or cocktail sherry with activated carbon or other decolorizing material shall maintain a record to show:

(a) The type (e.g. grape variety or kind of wine) and volume of juice, white wine, pale dry sherry, or cocktail sherry;

(b) The kind and quantity of the decolorizing material used per 1,000 gallons of wine or juice;

(c) The complete cellar treatment given each lot of juice, white wine, pale dry sherry, or cocktail sherry, and the date and the length of time the decolorizing material is in contact with the juice, white wine, pale dry sherry, or cocktail sherry;

(d) The temperature of the juice or wine during treatment; and

(e) The range of color (Lovibond scale in a one-half inch cell) or the percentage of transmittance per AOAC 11.003–11.004 of the expressed juice or the wine before treatment with any decolorizing material and the range of color or the percentage of transmittance per AOAC 11.003–11.004 after treatment.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

§ 24.323 Allied products record.

A proprietor who uses fruit, fruit juice or concentrated fruit juice in the production of allied products shall maintain a record of these materials in accordance with § 24.316. The record will also show the production and disposition of other allied products. If sugar, acids, or chemicals are used in allied products, the receipt and use will also be recorded.

(Sec. 201, Pub. L. 85–859, 72 Stat. 1381, as amended (26 U.S.C. 5367))

§ 24.324 Excise Tax Return form.

A proprietor who removes wine subject to tax shall prepare an Excise Tax Return form unless exempted under the provisions of § 24.273. Any increase or decrease in tax due to previous return errors or for authorized credits will be shown on the return. The Excise Tax Return will be prepared and filed by the proprietor in accordance with the instructions printed on the form.

(August 16, 1954, ch. 736, 68A Stat. 775, as amended, 777, as amended, 391, as amended, 917, as amended (26 U.S.C. 6301, 6311, 6302, 7805))

Signed: May 29, 1985.

Stephen E. Higgins,

Director.

Approved: September 20, 1985.

David D. Queen,

Acting Assistant Secretary (Enforcement and Operations).

[FR Doc. 86–4370 Filed 3–6–86; 8:45 am]

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federal register

Friday
March 7, 1986

Part IV

National Archives and Records Administration

Privacy Act of 1974; Systems of Records; Notice

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Privacy Act of 1974; Systems of Records

AGENCY: National Archives and Records Administration (NARA).

ACTION: Notice of new systems and amendments of systems of records.

SUMMARY: NARA proposes to publish all its systems of records subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a). The specific changes to the notices being amended are set forth below followed by the systems notices, as amended, published in their entirety.

DATE: NARA filed a new systems report with the Speaker of the House, the President of the Senate, and the Director, Office of Management and Budget (OMB) on November 6, 1985. The proposed systems shall be effective without further notice on April 7, 1986, unless comments are received which would result in a contrary determination.

ADDRESS: Comments should be addressed to Adrienne C. Thomas, Director, Program Policy and Evaluation Division (NAA), National Archives and Records Administration, Washington, D.C. 20408. Telephone (202) 523–3214.

FOR FURTHER INFORMATION CONTACT: Adrienne C. Thomas or Nancy Allard, Program Policy and Evaluation Division (NAA). Telephone (202) 523–3214 or (FTS) 523–3214.

SUPPLEMENTARY INFORMATION: On April 1, 1985, the National Archives and Records Service ceased to be a part of the General Services Administration. It became the National Archives and Records Administration, an independent agency in the executive branch. This required NARA to establish its own Privacy Act Notice of Systems. NARA's 24 systems of records subject to the Privacy Act include 22 modifications of the existing General Services Administration's systems. These modifications involved changing the name and number of the existing system of records, changing the name of the system manager, and changing the location of the records.

NARA's two new systems are NARA 15, Editorial Freelance Vendor Files, and NARA 16, Library Circulation Files. The categories of individuals covered by NARA 15 include former and current freelance vendors qualified to perform editorial services. The categories of records in this system includes correspondence with the editorial vendors, including all or parts of the following: Name; address; telephone number; education; professional vita; samples of work; assignments and evaluations of work done for the National Archives; and purchase order documents. The authority for maintenance of this system is 44 U.S.C. 2104. NARA procedures for contesting records are contained in 36 CFR Part 1202.

NARA 16, Library Circulation Files, is located in the Library of the National Archives Building at 8th and Pennsylvania Avenue NW., Washington, D.C. The mailing address is National Archives (NNIL), Washington, D.C. 20408. All NARA employees who have borrowed books and other materials from the Library are included in this category. The categories of records in this system includes specialized forms listing the names of individuals, materials borrowed and dates of loan. The authority for the maintenance of this system is 44 U.S.C. 2104. NARA rules for access to records and for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

Dated: February 28, 1986.

Frank G. Burke,

Acting Archivist of the United States.

National Archives and Records Administration (NARA) Privacy Act Notice of Systems

NARA 1 Researcher Application Files.
NARA 2 Reference Request Files.
NARA 3 Donors of Historical Materials Files.
NARA 4 National Archives Committees Files.
NARA 5 Conference and Related Activities Files.
NARA 6 Mailing List Files.
NARA 7 Mandatory Review of Classified Documents Request Files and Freedom of Information Act Request Files.
NARA 8 Restricted and Classified Records Access Authorization Files.
NARA 9 Authors Files.
NARA 10 Employee Drug Abuse/Alcoholism Files.
NARA 11 Credentials, Passes, and Licenses.
NARA 12 Emergency Notification Rosters and Files.
NARA 13 Defunct Agency Records.
NARA 14 Payroll and Time and Attendance Reporting System.
NARA 15 Editorial Freelance Vendor File.
NARA 16 Library Circulation Files.
NARA 17 Grievance Records.
NARA 18 General Law Files.
NARA 19 Workers Compensation Case Files.
NARA 20 Reviewer/Consultant File.
NARA 21 OPM Government-wide Notices.
NARA 22 Employee Related Files.
NARA 23 Investigation Case Files.
NARA 24 Personnel Security Files.

NARA 1

SYSTEM NAME:

Researcher Application Files, NARA.

SYSTEM LOCATION:

This system of records is located in the National Archives Building, Presidential Libraries, Washington National Records Center, National Personnel Records Center, Federal Records Centers, and National Archives Field Branches. The addresses are listed in the appendix following the NARA Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Researchers who apply to use records in the National Archives, Presidential Libraries, and National Archives Centers.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications to use records including name, address, telephone number, occupation, research topic, educational level, and field of interest.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2108, 2203(f)(1), and 2907.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used by employees of NARA who have a need for the records in the performance of their duties to identify and record the individuals who use records in the National Archives and other repositories listed above, to provide a means of contacting the individual if additional information of research interest to him or her is found, and to mail notices of events and programs of interest to users of the records in the National Archives. The routine use statements A, F, and G, described in the appendix following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in card files and file folders.

RETRIEVABILITY:

Filed alphabetically at each location by name of individual.

SAFEGUARDS:

During normal hours of operation, records are maintained in areas accessible only to authorized personnel of NARA. After hours, buildings have security guards and/or doors are

secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Records are cut off annually, held one year, and retired. After 14 additional years they are destroyed. These procedures are in accordance with the NARA Records Maintenance and Disposition Manual.

SYSTEM MANAGER(S) AND ADDRESS:

NARA officials with responsibility for this geographically dispersed system of records are the Assistant Archivist for the National Archives at the National Archives Building, the directors of the Presidential Libraries, the directors of the National Archives Field Branches, and the directors of the Federal Records Centers at the addresses listed for these locations in the appendix following the NARA Notices.

NOTIFICATION PROCEDURE:

Information may be obtained from the officials cited above at the appropriate repository where individuals have used records.

RECORD ACCESS PROCEDURES:

Requests for these records should be addressed to the Assistant Archivist for the National Archives, the directors of the Presidential Libraries, the directors of the National Archives Field Branches, or the directors of Federal Records Centers, depending on where individuals have used records. In person requests may be made during business hours listed for each location in the appendix following the NARA Notices. For written requests, the individual should provide full name, address, and telephone number, and the approximate dates records were used. For personal visits, individuals should be able to provide some acceptable identification, such as a driver's license or student or employee identification. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

Researchers.

NARA 2

SYSTEM NAME:

Reference Request Files, NARA.

SYSTEM LOCATION:

This system of records is located in the National Archives Building, Presidential Libraries, Washington National Records Centers, National Personnel Records Center, National Archives Field Branches, Federal Records Center, and the National Audiovisual Center. The addresses are listed in the appendix following the NARA Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Researchers and correspondents requesting information from the records in the National Archives, Presidential Libraries, National Archives Centers, and the National Audiovisual Center.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence, reference slips, receipts for money, deposit account records, reproduction orders, reference logs, lending files, and reference files pertaining to requests for information, including all or parts of the following: Requester's name, address, telephone number, occupation, research topic, educational level, and field of interest.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2108, 2203(f)(2) and 2907.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used by employees of NARA who have a need for the records in the performance of their duties to record requests for information and the responses to those requests; to maintain control over information requests received and answered; to enable later contact with the requester if required; to assist in the preparation of standard replies to similar questions; to facilitate preparation of statistical and other reports; to maintain control of records being used; to establish researcher accountability for records; to record payment for reproduction orders and funds placed on deposit; to record loans of materials or records from the above locations; and, when requested by a researcher, to write recommendations for researchers for grants or employment. The routine use statements A, F, and G, described in the appendix following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in card files and file folders.

RETRIEVABILITY:

The records within this system are primarily retrieved by name.

SAFEGUARDS:

During normal working hours of operation, records are maintained in areas accessible only to authorized personnel of NARA. After hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Records which are:

(1) Created in the administration of loans are cut off after the return of the materials, held one year, and destroyed.

(2) Created in the process of providing reference service by mail are cut off annually, held two years, and destroyed.

(3) Created in the process of providing records to researchers in National Archives research rooms are cut off annually, held one year and retired. After 14 additional years they are destroyed.

These procedures are in accordance with the NARA Records Maintenance and Disposition Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Depending on where the records are located the system managers are the Assistant Archivist for the National Archives, the Director of the National Audiovisual Center, the directors of the Presidential Libraries, the directors of the National Archives Field Branches, and the directors of Federal Records Centers at the address listed for these locations in the appendix following the NARA Notices.

NOTIFICATION PROCEDURE:

Information may be obtained from the officials listed above at the appropriate repository where individuals have used records or directed inquiries. The addresses are listed in the appendix following the NARA Notices.

RECORD ACCESS PROCEDURES:

Requests for these records should be addressed to the Assistant Archivist for the National Archives, the directors of the Presidential Libraries, the directors of National Archives Field Branches, or the directors of Federal Records Centers, or the Director of the National Audiovisual Center depending on where individuals used records or directed inquiries. In person requests may be made during normal business hours listed for each location in the appendix following NARA notices. For written requests, provide full name, address, telephone number, and the approximate dates of the correspondence or transaction. For personal visits, individuals should be able to provide

some acceptable identification, such as a driver's license or student or employee identification. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

Researchers, correspondents, and employees of the National Archives.

NARA 3

SYSTEM NAME:

Donors of Historical Materials Files, NARA.

SYSTEM LOCATION:

This system of records is located in the National Archives Building and the Presidential Libraries. The addresses are listed in the appendix following the NARA Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Donors and potential donors of papers or other historical materials to the National Archives and Presidential Libraries.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence, deeds of gift, deposit agreements, accession files, accession cards, administrative files, inventories of museum objects, oral history use agreements, tapes, and transcripts, all of which are related to the solicitation and preservation of donations. Also included are biographical data on donors as well as their addresses, telephone numbers, and occupations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2111 and 2112.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used by employees of NARA who have a need for the records in the performance of their duties primarily to record solicitation efforts and accessioning of papers and other historical materials for preservation in the above locations; to maintain control over the accessions program; to facilitate future solicitations of gifts; to record deeds of gift; and to record agreements of use. The routine uses of records also include releasing biographical material about donors and prospective donors to the public as well as the routine use statements A, F, and G, described in the appendix following the NARA Notices.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders; sound recordings.

RETRIEVABILITY:

Filed alphabetically at each location by name of donor.

SAFEGUARDS:

Buildings have security guards, and records and other materials are maintained in areas accessible only to authorized personnel of NARA.

RETENTION AND DISPOSAL:

Records are permanent. These procedures are in accordance with the NARA Records Maintenance and Disposition Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Depending on where the records are maintained the system managers are the Assistant Archivist for the National Archives and the Assistant Archivist for Presidential Libraries at the National Archives Building, and the directors of the Presidential Libraries. The addresses are listed in the appendix following the NARA Notices.

NOTIFICATION PROCEDURES:

Information may be obtained from the officials listed above at the appropriate repository where individuals have donated materials or from which they have received requests for donations. The addresses are listed in the appendix following the NARA Notices.

RECORD ACCESS PROCEDURES:

Requests for these records should be addressed to the Assistant Archivist for the National Archives, the Assistant Archivist for Presidential Libraries, or a director of a Presidential Library depending on which repository the individual has been associated with. In person requests may be made during normal business hours listed for each location in the appendix following the NARA Notices. For written requests, provide full name, address, telephone number, and the approximate dates of the correspondence or transaction. For personal visits individuals should be able to provide some acceptable identification such as a driver's license or employee identification card. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

Donors, potential donors, and employees of the National Archives.

NARA 4

SYSTEM NAME:

National Archives Committees Files, NARA.

SYSTEM LOCATION:

This system of records is located in the National Archives Building. The address is listed in the appendix following the NARA Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former, current, and prospective advisory committee members.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence with and biographical information about former, current, and prospective advisory committee members including all or parts of the following: Name, address, telephone number, education, professional vita, and publications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104(f)

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used by employees of NARA who have a need for these records in the performance of their duties to review professional qualifications of prospective committee members; to document activities of the committees themselves; to serve as a mailing list of current and past members; to record the committee members' role; and to help formulate advisory committee policy. Biographical material relating to advisory committee members is made available to the public for purposes of publicizing the membership and activities of the committees. The routine use statement F, described in the appendix following the NARA Notices, also applies to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by name of individual.

SAFEGUARDS:

During normal hours of operation, records are maintained in areas

accessible only to authorized personnel of NARA. After hours, the building has security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

These records are cut off after each meeting, held five years, and offered to the National Archives. These procedures are in accordance with the NARA Records Maintenance and Disposition Manual.

SYSTEM MANAGER(S) AND ADDRESS:

The NARA official with overall responsibility for the system records is the Assistant Archivist for Management and Administration (NA), National Archives Building, 8th and Pennsylvania Avenue NW., Washington, DC 20408.

NOTIFICATION PROCEDURE:

Information may be obtained from the official listed above at the address listed above.

RECORD ACCESS PROCEDURES:

Requests for these records should be addressed to the Assistant Archivist for Management and Administration (NA). In person requests may be made during normal business hours listed in the appendix, following the NARA Notices. For written requests, provide full name, address, telephone number, and if applicable, dates of service. For personal visits, individuals should be able to provide some acceptable identification, such as a driver's license or employee identification card. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

Former, current, and prospective advisory committee members, associates of committee members, and employees of the National Archives.

NARA 5

SYSTEM NAME:

Conference and Related Activities Files, NARA.

SYSTEM LOCATION:

This system of records is located in the National Archives Building, Presidential Libraries, Washington National Records Center, National Personnel Records Center, Federal Records Centers, and National Archives Field Branches. The addresses are listed in the appendix following the NARA Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Participants or potential participants in symposia, conferences, lectures, etc.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical information about individuals involved in these activities including name, address, telephone number, area of expertise, research interest, occupation, education, and publications.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104, 2109, and 2204.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used by employees of NARA who have a need for the records in the performance of their duties in the various archival programs indicated above; to provide a record of previous activities; to promote the use of archival materials; to provide mailing lists; to facilitate publication of the activity's proceedings; and to register persons attending the activity. The routine use statement F, described in the appendix following the NARA Notices, also applies to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in card files and file folders.

RETRIEVABILITY:

Filed alphabetically at each location by name of individual.

SAFEGUARDS:

During normal hours of operations, records are maintained in areas accessible only to authorized personnel of NARA. After hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

These records are cut off after the event, held for one year, and destroyed. These procedures are in accordance with the NARA Records Maintenance and Disposition Manual.

SYSTEM MANAGER(S) AND ADDRESS:

NARA officials with responsibility for this geographically dispersed system of records are the Assistant Archivist for the National Archives and the Assistant Archivist for Public Programs at the National Archives Building, the directors of the Presidential Libraries, the directors of the Federal Records Centers, and the directors of the National Archives Field Branches at the addresses listed in the appendix following the NARA Notices.

NOTIFICATION PROCEDURE:

Information may be obtained from the officials listed above at the appropriate location which sponsored the activity which the individual attended or in which he or she participated. The addresses are listed in the appendix following the NARA Notices.

RECORD ACCESS PROCEDURES:

Requests for these records should be addressed to the Assistant Archivist for the National Archives, the Assistant Archivist for Public Programs, the directors of Presidential Libraries, the directors of Federal Records Centers, or directors of National Archives Field Branches. In person requests may be made during normal working hours listed for each location in the appendix following the NARA Notices. For written requests, provide full name, address, telephone number, and the dates of activity. For personal visits, provide some acceptable identification, such as a driver's license or an employee identification card. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

Participants, attendees, and employees of the National Archives.

NARA 6

SYSTEM NAME:

Mailing List Files, NARA.

SYSTEM LOCATION:

This system of records is located in the National Archives Building, Presidential Libraries, Washington National Records Center, National Personnel Records Center, National Audiovisual Center, National Archives Field Branches, and Federal Records Centers. The addresses are listed in the appendix following the NARA Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Researchers; buyers of NARA products and those making inquiries or receiving price quotations on possible orders; tourists; Government officials; professional colleagues; professionals in

related fields, such as librarians and teachers; and others with an interest in National Archives activities.

CATEGORIES OF RECORDS IN THE SYSTEM:

Mailing lists include primarily the individual's name and address. Some lists also include telephone number, title, occupation, and institutional affiliation. Some mailing lists include type and subject of materials purchased, date purchased, and dollar value.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2109, 2112, 2307, 2902, and 2904.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The mailing lists are used by employees of NARA who have a need for the records in the performance of their duties, to address newsletters, announcements, programs, and material about special events; to bill researchers for reproduction orders; and to mail press releases and other information. On occasion the mailing lists are donated to or exchanged with private and public organizations to further scholarship and NARA programs. The routine use statement F, described in the appendix following the NARA Notices, also applies to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in card files, index cards, address plates, magnetic cards, punch cards, cassettes, and magnetic tape.

RETRIEVABILITY:

Filed alphabetically at each location by name of individual.

SAFEGUARDS:

During normal hours of operation, these records are maintained in areas accessible only to authorized personnel of NARA. After hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

These mailing lists are reviewed annually and updated. Outdated information is purged. These procedures are in accordance with the NARA Records Maintenance and Disposition Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Officials responsible for the geographically dispersed system of records are the Assistant Archivist for Management and Administration, Assistant Archivist for the National Archives, the Assistant Archivist for the Presidential Libraries, and the Assistant Archivist for Public Programs at the National Archives Building, and the Assistant Archivist for Records Administration, at 601 D Street NW., Washington, DC 20408. Other officials are directors of the Presidential Libraries, the directors of Federal Records Centers, and directors of National Archives Field Branches. The addresses for these locations are listed in the appendix following the NARA Notices.

NOTIFICATION PROCEDURE:

Information may be obtained from the officials cited above at the appropriate location in which the individual has expressed an interest or in which he or she has a potential interest. The addresses are listed in the appendix following the NARA Notices.

RECORD ACCESS PROCEDURES:

Requests from individuals to access records should be addressed to the Assistant Archivist for Management and Administration, the Assistant Archivist for the National Archives, the Assistant Archivist for Presidential Libraries, the Assistant Archivist for Public Programs, the Assistant Archivist for Records Administration, the directors of the Presidential Libraries, the directors of Federal Records Centers, and the directors of National Archives Field Branches, depending on which archives activity maintains the specific records. In person requests may be made during normal business hours listed for each location in the appendix following the NARA Notices. For written requests, provide full name, address, and telephone number, and the approximate date of communications with the repository. For personal visits, individuals should be able to provide some acceptable identification, such as a driver's license or employee identification card. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

Individuals expressing an interest in archives activities and NARA employees.

NARA 7

SYSTEM NAME:

Mandatory Review of Classified Documents Request Files and Freedom of Information Act Request Files, NARA.

SYSTEM LOCATION:

This system of records is located in the National Archives Building, Presidential Libraries, Washington National Records Center, Federal Records Centers, and National Archives Field Branches. The addresses are listed in the appendix following the NARA Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Researchers requesting mandatory review of security classified documents and requesting records under the Freedom of Information Act.

CATEGORIES OF RECORDS IN THE SYSTEM:

Requests for records under the Freedom of Information Act include requestor's name, address, and material requested. Requests for mandatory review of classified documents include requestor's name, address, telephone number, occupation, employer, and research topic.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 12356, April 2, 1982 (3 CFR, 1982 Comp., P. 166) and 5 U.S.C. 552, as amended.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used by employees of NARA who have a need for the records in the performance of their duties to record requests for access to security-classified records and requests to obtain records under the Freedom of Information Act; to record status of each request; to record actions taken on requests, and to compile information for statistical reports. Records in this system may be made available for access review to the agency that created the documents requested under the Freedom of Information Act or a Mandatory Review request. The routine use statements A, F, and G, described in the appendix following the NARA Notices, also apply to this system of records.

POLICY AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in card files and file folders.

RETRIEVABILITY:

Filed alphabetically at each location by name of individual.

SAFEGUARDS:

During normal hours of operation, these records are maintained in areas accessible only to authorized personnel of NARA. After hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Records are cut off annually, held one year, and retired. They are subsequently destroyed in accordance with NARA Records Maintenance and Disposition Manual.

SYSTEM MANAGER(S) AND ADDRESS:

NARA officials with responsibility for this geographically dispersed system of records are the Assistant Archivist for the National Archives and the Assistant Archivist for Management and Administration at the National Archives Building, the directors of the Presidential Libraries, the directors of the National Archives Field Branches, and the director of the Federal Records Centers at the addresses listed for these locations in the appendix following the NARA Notices.

NOTIFICATION PROCEDURE:

Information may be obtained from the officials listed above at the appropriate repository where individuals have requested mandatory review of classified records or have requested records under the Freedom of Information Act. The addresses are listed in the appendix following the NARA Notices.

RECORD ACCESS PROCEDURES:

Requests for these records should be addressed to the Assistant Archivist for Management and Administration, the Assistant Archivist for the National Archives, the directors of the Presidential Libraries, directors of the National Archives Field Branches, and the directors of the Federal Records Centers, depending on where the individual requested the mandatory review or requested records under the Freedom of Information Act. In person requests may be made during normal business hours listed for each location in the appendix following NARA Notices. For written requests, provide some acceptable identification. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

Researchers who have requested mandatory review of records or who have requested records under the Freedom of Information Act.

NARA 8

SYSTEM NAME:

Restricted and Classified Records Access Authorization Files, NARA.

SYSTEM LOCATION:

This system of records is located in the National Archives Building, Presidential Libraries, Washington National Records Center, National Personnel Records Center, Federal Records Centers, and National Archives Field Branches. The addresses are listed in the appendix following the NARA Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Researchers who apply to use agency-restricted, donor-restricted, or classified records in the locations listed above.

CATEGORIES OF RECORDS IN THE SYSTEM:

Applications and letters of authorization to use restricted and/or classified records, including name, address, telephone number, occupation, employer, security clearance, social security number, date and place of birth, purpose, field of interest, citizenship, intention to publish, and type of publication.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2108 and 2204.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used by employees of NARA who have a need for the records in the performance of their duties to control access to restricted materials; to maintain a record of requests for access; and to authorize access to restricted/classified materials. Records in this system may be made available for access review to agencies whose restricted records are the subject of an access request. The routine use statements A, F, and G, described in the appendix following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in card files and file folders.

RETRIEVABILITY:

Filed alphabetically at each location by name of individual.

SAFEGUARDS:

During normal hours of operation, these records are maintained in areas accessible only to authorized personnel of NARA. After hours, buildings have security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

These records relating to private individuals requesting access are cut off annually, held one year, and retired. After 14 additional years they are destroyed. Records relating to agency officials requesting access are destroyed on supersession or obsolescence of the authorization document, or on transfer or separation of the individual concerned. These procedures are in accordance with the NARA Records Maintenance and Disposition Manual.

SYSTEM MANAGER(S) AND ADDRESS:

NARA officials with responsibility for this system or records are the Assistant Archivist for the National Archives at the National Archives Building, the directors of Presidential Libraries, the directors of the National Archives Field Branches, and the directors of Federal record centers at the addresses listed for these locations in the appendix following the NARA Notices.

NOTIFICATION PROCEDURE:

Information may be obtained from the officials listed above at the appropriate repository where individuals have applied for access to records. The addresses are listed in the appendix following the NARA Notices.

RECORD ACCESS PROCEDURES:

Requests for these records should be addressed to the Assistant Archivist for the National Archives, the directors of the Presidential Libraries, directors of National Archives Field Branches, or the directors of the Federal Records Centers, depending on where the individual submitted his or her application for access to the records. In person requests may be made during normal business hours listed for each location in the appendix following the NARA Notices. For written requests, provide full name, address, telephone

number, and the approximate dates the application was made. For personal visits, individuals should be able to provide some acceptable identification, such as a driver's license or employee identification card. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 Part CFR 1202.

RECORD SOURCE CATEGORIES:

Researchers and agency officials.

NARA 9

SYSTEM NAME:

Authors Files, NARA.

SYSTEM LOCATION:

This system of records is located in the National Archives Building, Presidential Libraries, and National Archives Field Branches. The addresses are listed in the appendix following the NARA Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Authors whose publications are based on National Archives holdings and authors who have submitted manuscripts which have been published or considered for publication in *Prologue: The Journal of the National Archives.*

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical information about the authors including name, address, telephone number, occupation, education, and research interests, and manuscript copies of writings.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2307.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used by employees of NARA who have a need for the records in the performance of their duties to provide an indication of areas of interest in archival holdings and the extent to which the scholarly community relies on National Archives holdings as primary source material; and to maintain a record of manuscripts which *Prologue* has rejected or accepted and published. The routine use statement F, described in the appendix following the NARA Notices, also applies to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

RETRIEVABILITY:

Filed alphabetically at each location by name of individual.

SAFEGUARDS:

During normal business hours of operation, these records are maintained in areas accessible only to authorized personnel of NARA. After hours, buildings have security guards and/or doors are secured, and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Disposition of these records shall be in accordance with the NARA Records Maintenance and Disposition Manual.

SYSTEM MANAGER(S) AND ADDRESS:

NARA officials responsible for this geographically dispersed system of records are the Assistant Archivist for the National Archives and the Assistant Archivist for Public Programs at the National Archives Building, the directors of the Presidential Libraries, and the directors of the National Archives Field Branches. The addresses are listed in the appendix following the NARA Notices.

NOTIFICATION PROCEDURE:

Information may be obtained from the official listed above and at the appropriate repository where individuals have used records or submitted manuscripts for publication. The addresses are listed in the appendix following the NARA Notices.

RECORD ACCESS PROCEDURES:

Requests for these records should be addressed to the Assistant Archivist for the National Archives, the Assistant Archivist for Public Programs, the directors of the Presidential Libraries, or the directors of National Archives Field Branches. In person requests may be made during normal business hours listed for each location in the appendix following NARA notices. For written requests, provide full name, address, telephone number, and the title of publication. For personal visits, individuals should be able to provide some acceptable identification such as a driver's license or an employee identification card. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

Authors and National Archives employees.

NARA 10

SYSTEM NAME:

Employee Drug Abuse/Alcoholism Files, NARA.

SYSTEM LOCATION:

This system of records is located in the personnel offices of NARA at the addresses listed in the appendix following the NARA Notices; in the offices of designated counselors; and in the offices of supervisors who supervise employees suspected or known to have drug abuse problems (including alcoholism).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NARA employees who have been suspected of known to have an alcohol or drug abuse problem.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records includes referrals for counseling, counseling files, and referrals for rehabilitative assistance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

21 U.S.C. 1101 et. seq. and 5 U.S.C. 7901.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records in this system of records are used to document that supervisors have properly dealt with employees whose work is affected by alcohol or other drug abuse; to communicate information to personnel having a need for the information in connection with their duties, such as medical or health personnel, alcohol or other drug abuse counselors and program administrators, and qualified service organizations; to provide a basis for meeting reporting requirements to the Office of Personnel Management; and to disclose information to the Department of Justice or other appropriate Federal agencies in defending claims against the United States, when the claim is based upon an employee's mental or physical condition and is alleged to have arisen because of the activities of NARA in connection with such individual. Such disclosure will be restrictively made; in particular, disclosures of information pertaining to an individual with a history of alcohol or other drug abuse will be limited in compliance with the restrictions of the confidentiality of Alcohol and Drug

Abuse Patient Records regulation, 42 CFR Part 2.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file drawers or cabinets.

RETRIEVABILITY:

Filed alphabetically at each location by name of individual.

SAFEGUARDS:

When not in normal use by an authorized person, these records are stored in lockable metal file cabinets or in secured rooms.

RETENTION AND DISPOSAL:

These records are maintained for 1 year after the employee's last contact with the counselor, or until the employee's separation or transfer, whichever comes first. These records are destroyed by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

The Director of Personnel at 601 D Streets NW., Washington, DC 20408. Mailing address: National Archives and Records Administration (NAP), Washington, DC 20408.

NOTIFICATION PROCEDURE:

Current NARA employees may obtain information about whether they are part of this system of records from their supervisor or from their personnel officer at the appropriate address listed in the appendix following the NARA Notices, or from the NARA Director of Personnel at the address noted above, whichever is applicable. Former NARA employees should direct requests to gain access to information pertaining to them to the appropriate NARA personnel officer at the address listed in the appendix. For identification requirements refer to the NARA regulations outlined in 36 CFR Part 1202.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

Supervisors, counselors, personnel specialists, and the employees themselves.

NARA 11

SYSTEM NAME:

Credentials, Passes, and Licenses, NARA.

SYSTEM LOCATION:

This system of records is maintained by the Administrative Services Division, National Archives Building, 8th and Pennsylvania Avenue NW., Washington, DC; the Director of the Washington National Records Center, 4205 Suitland Road, Suitland, Maryland; and by the Administrative Officer at other NARA facilities listed in the appendix following the NARA Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All NARA employees and volunteers whose assigned responsibilities require the issuance of credentials for identification and security purposes, or a license to operate a motor vehicle.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. Standard Form 47, Physical Fitness Inquiry for Motor Vehicle Operators (Name, date of birth, title of position, home address, agency, medical inquiry, applicant's signature and date, signature of designated official, and date).
2. NA Form 6006, Request for and Record of Credential or Pass (Name, description of individual, SSN, and place of employment).
3. NA Form 6000, National Archives Identification Card (Photo, signature of employee, name of employee, signature of issuing official, date issued, identification serial number, height, weight, color eyes, color hair, and date of birth).
4. NA Form 7001, Application for Motor Vehicle Operator's identification Card (SF 46) (Name, organization, type of vehicle, personal data and driving record, applicant's signature and date, physical fitness certification by signature of certifying official, and certification of eligibility by signature of certifying official).
5. OF 7, Property Pass (Name, building, description of property, agency, and effective date).
6. OF 55, U.S. Government Identification.
7. NA Form 6009, Parking Control Record (Name, address, agency, correspondence symbol, office telephone number, and length of service).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records in this system are used primarily to facilitate the issuance and control of cards, parking permits, building passes, drivers licenses, and similar credentials. The routine use statements A, B, and F, described in the appendix following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper forms.

RETRIEVABILITY:

By name.

SAFEGUARDS:

When not in use by an authorized person, these records will be stored in lockable metal file cabinets or in secured areas.

RETENTION AND DISPOSAL:

Disposition of these records shall be in accordance with the NARA Records Maintenance and Disposition Manual.

SYSTEM MANAGER(S) AND ADDRESS:

The official NARA responsible for this system of records is the NARA Director of Administrative Services, 8th and Pennsylvania Avenue NW., Washington, DC 20408. Since this is a geographically dispersed system, individuals may gain access to it by contacting the Administrative Officers at locations listed in the appendix following the NARA Notices or the Director, Washington National Records Center (NCW), Washington, DC 20409.

NOTIFICATION PROCEDURE:

The address of the NARA offices to which inquiries should be addressed and addresses at which an individual may request whether a system contains records pertaining to himself or herself is the same as that shown in the appendix following NARA notices. Individuals should provide name, social security number, period of employment, and position held to assist the office in locating the record.

RECORD ACCESS PROCEDURES:

Individuals can obtain information on the procedures for gaining access to or contesting records from the Director, Office of Administrative Services, the Director of the Washington National Records Center, or the Administrative Officers at NARA facilities, as shown in the appendix following the NARA Notices.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

Information is provided by the employee being issued the credential and by the issuing official.

NARA 12

SYSTEM NAME:

Emergency Notification Rosters and Files, NARA.

SYSTEM LOCATION:

This system of records is maintained in the NARA Administrative Services Division, 8th and Pennsylvania Avenue NW., Washington, DC and in all NARA facilities outside the Washington, DC metropolitan area listed in the appendix following the NARA Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NARA officials at division director level and above, and NARA employees with emergency assignments.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records consist of roster of NARA officials; NARA employee emergency assignments; and essential employees' residence telephone numbers. Information includes name, office and home telephone numbers, home address, title and emergency assignment.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records in this system are used primarily to maintain current directory information on key NARA officials or for use by the Central Office contact point during weekends, holidays, and emergencies; to provide essential telephone service to key employees during emergencies; and to notify officials and employees of emergency conditions.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY:

Indexed by name.

SAFEGUARDS:

When not in use by an authorized person, these records will be stored in lockable metal file cabinets or in secured areas.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the NARA Records Maintenance and Disposition Manual.

SYSTEM MANAGER(S) AND ADDRESS:

The NARA official with overall responsibility for the system of records is the Director of Administrative Services, 8th and Pennsylvania Avenue NW., Washington, DC 20408. Since this is a geographically dispersed system of records, individuals may gain access to it by contacting the officials at locations listed in the appendix following the NARA Notices.

NOTIFICATION PROCEDURE:

NARA employees may obtain information as to whether they are part of this system of records from the Director of Administrative Services or the applicable director of a Presidential Library, Federal Records Center, or National Archives Field Branch listed in the appendix following the NARA Notices.

RECORD ACCESS PROCEDURES:

An individual can obtain information on the procedures for gaining access to records from the Director of Administrative Services or the applicable director of a Presidential Library, Federal Records Center, or National Archives Field Branch listed in the appendix following the NARA Notices.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

Information if provided by subject individuals and their supervisors.

NARA 13

SYSTEM NAME:

Defunct Agency Records, NARA.

SYSTEM LOCATION:

This system of records is located in the Federal Records Centers at the locations listed in the appendix following the NARA Notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Employees of defunct agencies and individuals who may have had dealings with the defunct agencies.

CATEGORIES OF RECORDS IN THE SYSTEM:

Records other than those covered by Government-wide systems which are arranged or can be retrieved alphabetically by name or other personal identifiers.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2108.

ROUTINE USE OF RECORDS MAINTAINED IN THE SYSTEM:

The routine use of statements A, B, C, F, and G, described in the appendix following the NARA notices, apply to this system of records. The records, if unscheduled for disposition, are routinely used during the appraisal process.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and card files, microfilm records in reels, and computer records on tapes. All records stored in record center containers.

RETRIEVABILITY:

Records are retrieved generally by name or social security number.

SAFEGUARDS:

When not in use by an authorized person, the records are stored in record center containers located in Federal records center storage areas.

RETENTION AND DISPOSAL:

Records appraised as permanent will be transferred to the custody of the Office of the National Archives. Records appraised as temporary will be destroyed immediately or after a fixed period of time, whichever is approved by the Archivist of the United States.

SYSTEM MANAGER(S) AND ADDRESS;

The system manager is the Deputy Archivist of the United States, 8th and Pennsylvania Avenue NW., Washington, DC 20408. Mailing address: National Archives and Records Administration (ND), Washington, DC 20408.

NOTIFICATION PROCEDURE:

Requests for assistance should be made to the Deputy Archivist of the United States, National Archives and Records Administration (ND), Washington, DC 20408.

RECORD ACCESS PROCEDURES:

NARA procedures for record access are contained in 36 CFR Part 1202.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

Upon termination of an agency, the agency transfers its records to the custody of NARA.

NARA 14

SYSTEM NAME:

Payroll and Time and Attendance Reporting System, NARA.

SYSTEM LOCATION:

This system of records is located in the NARA offices wherever there are timekeepers and at the addresses listed in the appendix following the NARA Notices. Two automated series of records in this system, the Personnel Information Resources System (PIRS) and the Payroll Information Processing System (PIPS), are maintained for NARA by the General Services Administration under a reimbursable agreement.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former NARA employees.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system provides for reporting each employee's pay status as either on the job time or as paid or unpaid time, including absences without authorized leave. Accordingly, records include but are not limited to name, home address, telephone number, work location, social security number, hours of duty, and payroll and attendance information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C., Part III, (sec. 2101–8901) is the authority for the overall system. Specific authority for use of social security numbers is contained Executive Order 9397, 26 CFR 31.6011(b) 2, and 26 CFR 31.6109–1.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

To the extent necessary, the records are available outside NARA to monitor and document grievance proceedings, EEO complaints, and adverse actions; and to conduct counseling sessions. The information contained in this system of records may be disclosed to the Office of Management and Budget in connection with the review of private relief legislation at any stage of the legislative coordination and clearance process. A record from this system of records may be provided to the Office of Personnel Management in its production of summary descriptive statistics for which these records are collected and maintained, or for related work studies. While published statistics and studies do not contain individual identifiers, in some instances the selection of elements of data included in the study may be structured in a way to make individuals identifiable by inference. The routine use statements A, B, C, D, E, F, G, and H, described in the appendix following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders, card files, and cabinets; microfilm records in reels and cabinets; microfiche in cabinets; magnetic tapes and cards in cabinets and storage Libraries; and computer records within a computer and attached equipment.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Stored in guarded buildings and/or in controlled areas.

RETENTION AND DISPOSAL:

Disposition of these records will be in accordance with the NARA Records Maintenance and Disposition Manual.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Personnel Services Division, National Archives and Records Administration, 601 D Street NW, Washington, DC 20408. Mailing address: National Archives (NAP), Washington, DC 20408.

NOTIFICATION PROCEDURE:

Current NARA employees may obtain information about this system of records from their supervisor or from the Director, Personnel Services Division, National Archives and Records Administration, 601 D Street NW, Washington, DC 20408. Former NARA employees may obtain information at the address listed above.

RECORD ACCESS PROCEDURE:

Requests from current or former NARA employees to access records should be directed to the employee's supervisor or to the Director, Personnel Services Division, at the address noted above, whichever is applicable. For written request, former NARA employees should provide full name, social security number, address, telephone number, and approximate dates and places of employment. For identification requirements, refer to the agency regulations as outlined in 36 CFR Part 1202.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

The individuals themselves, other NARA employees, supervisors, other Federal agencies, and management officials.

NARA 15

SYSTEM NAME:

Editorial Freelance Vendor File, NARA.

SYSTEM LOCATION:

The system is located in the National Archives Building.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former and current freelance vendors qualified to perform editorial services.

CATEGORIES OF RECORDS IN THE SYSTEM:

Correspondence with and biographical information about former and current editorial freelance vendors, including all or parts of the following: name, address, telephone number, education, professional vita, samples of work, assignments and evaluations of work done for the National Archives, and purchase order documents.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are used by the employees of NARA who have a need for the records in the performance of their duties to review professional qualifications of freelance contract editors; to make editorial assignments to freelance contract editors; to review progress being made on an assignment; to evaluate the quality of work performed during an assignment; and to account for money spent on contract editorial work.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by name of individual.

SAFEGUARDS:

System is in a locked file cabinet.

RETENTION AND DISPOSAL:

Disposition of these records will be in accordance with the NARA Records Maintenance and Disposition Manual.

SYSTEM MANAGER(S) AND ADDRESS:

The agency official with overall responsibility for the system of records is the Director, Publications Division, National Archives Building, 8th and Pennsylvania Avenue NW, Washington, DC 20408. Mailing address: National Archives (NEP), Washington, DC 20408.

NOTIFICATION PROCEDURE:

Information may be obtained from the official listed above.

RECORD ACCESS PROCEDURES:

Requests for these records should be addressed to the Director, Publications Division, Office of Public Programs. In person requests may be made during normal business hours. For written requests, provide full name, address, telephone number, and date span. For personal visits, individuals should provide some acceptable identification, such as a driver's license or employee identification card. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

Former and current freelance vendors qualified to perform editorial services and NARA employees.

NARA 16

SYSTEM NAME:

Library Circulation Files, NARA.

SYSTEM LOCATION:

This system of records is located in the Library in the National Archives Building at 8th and Pennsylvania Avenue, NW, Washington, DC 20408. Mailing address: National Archives (NNIL), Washington, DC 20408.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All NARA employees who have borrowed books and other materials from the Library.

CATEGORIES OF RECORDS IN THE SYSTEM:

Specialized forms giving the names of individuals, materials borrowed, and dates of loan.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2104.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records are primarily used by the Library staff for controlling the circulation of Library monographs and serials. The routine use statements A and F, described in the appendix following the NARA Notices, apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file trays.

RETRIEVABILITY:

Filed alphabetically by name.

SAFEGUARDS:

Records are stored in an area available to authorized Library personnel only.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the NARA Records Maintenance and Disposition Manual.

SYSTEM MANAGER(S) AND ADDRESS:

The Chief, Library and Printed Archives Branch (NNIL) 8th and Pennsylvania Avenue, NW, Washington, DC 20408. Mailing address: National Archives (NNIL), Washington, DC 20408.

NOTIFICATION PROCEDURE:

NARA employees may obtain information about whether they are part of this system of records from the Library staff at the address listed above.

RECORD ACCESS PROCEDURES:

Requests from NARA employees to gain access to information pertaining to them should be directed to the Chief, Library and Printed Archives Branch (NNIL), 8th and Pennsylvania Avenue, NW, Washington DC 20408. For identification requirements refer to the agency regulations as outlined in 36 CFR Part 1202.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

NARA employees borrowing books and other materials from the National Archives Library.

NARA 17

SYSTEM NAME:

Grievance Records, NARA.

SYSTEM LOCATION:

These records are located in the personnel offices of NARA at the location listed in the appendix following the NARA Notices or designated offices in NARA where the grievances were filed.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current or former NARA employees who have submitted grievances with NARA in accordance with the Office of Personnel Management (OPM) Regulations (5 CFR Part 771) or a negotiated procedure.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system of records contains records relating to grievances filed by NARA employees under the OPM regulations. These case files contain all documents related to grievances including statements of witnesses, reports of interviews and hearings, examiner's findings and recommendations, a copy of the original and final decision, and related correspondence and exhibits. This system also includes files and records of internal grievance and arbitration systems that are established through negotiations with recognized labor organizations.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1302, 3301, and 3302; E.O. 10577 (3 CFR 1954–1958 Comp., p. 218); E.O. 10987 (3 CFR 1959–1963 Comp. p. 549).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records in this system of records are used to disclose information to any source from which additional information is requested in the course of processing a grievance, to the extent necessary to identify an individual, inform the source of the purpose(s) of the request and identify the type of information requested. They are also used to provide information to officials of labor organizations recognized under the Civil Service Reform Act when relevant and necessary to their duties of exclusive presentation concerning personnel policies, practices, and matters affecting work conditions. The routine use statements D, F, G, and H, described in the appendix following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in file folders.

RETRIEVABILITY:

These records are retrieved by the names of the individuals on whom they are maintained.

SAFEGUARDS:

These records are maintained in lockable metal filing cabinets to which only authorized personnel have access.

RETENTION AND DISPOSAL:

These records are disposed of 3 years after closing of the case. Disposal is by shredding or burning.

SYSTEM MANAGER(S) AND ADDRESS:

The Director, Personnel Services Division, 601 D Street NW, Washington, DC 20408. Mailing address: National Archives (NAP), Washington, DC 20408.

NOTIFICATION PROCEDURE:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. They may, however, contact the NARA personnel, or other designated office, where the action was processed regarding the existence of such records on them. They must furnish the following information for their records to be located and identified: Name, date of birth, approximate date of closing of the case and kind of action taken, and the organizational component involved.

RECORD ACCESS PROCEDURES:

It is required that individuals submitting grievances be provided a copy of the record under the grievance process. However, after the action has been closed, an individual may request access to the official copy of the grievance file by contacting the NARA personnel or other designated office where the action was processed. Individuals must provide the following information for their records to be located and identified: Name, date of birth, approximate date of closing of the case, kind of action taken, and organizational component involved. Individuals requesting access must also follow the NARA regulations as outlined in 36 CFR Part 1202 regarding access to records.

CONTESTING RECORD PROCEDURES:

Review of requests from individuals seeking amendment of their records which have been the subject of a judicial or quasi-judicial action will be limited in scope. Review of amendment requests of these records will be restricted to determine if the record accurately documents the action of NARA's ruling on the case and will not include a review of the merits of the action, determination, or finding. Individuals wishing to request amendment of their records to correct factual errors should contact the NARA personnel or designated office where the grievance was processed. Individuals must furnish the following information for their records to be located and identified: Name, date of birth, approximate date of closing of the case, kind of action taken, and organizational component involved. Individuals must also follow the NARA Privacy Act regulations outlined in 36 CFR Part 1202 regarding amendment to records.

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by the individual on whom the record is maintained, by testimony of witnesses, by agency officials, and from related correspondence from organizations or persons.

NARA 18

SYSTEM NAME:

General Law Files, NARA/NSL.

SYSTEM LOCATION:

This system of records is maintained by the Legal Services Staff, National Archives Building, 8th and Pennsylvania Avenue NW., Washington, DC 20408. Mailing address: National Archives (NSL), Washington, DC 20408.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system covers one or more of the following categories of individuals: NARA employees, past and present; other Federal agency employees; members of the public (including individuals, corporations, and firms); witnesses in litigation; persons who have Freedom of Information and Privacy Act requests and persons about whom such requests have been made; persons pursuing tort claims against the Government or who are involved in litigation with NARA and/or have filed grievances.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system covers one or more of the following categories of records: Among other data, name of individual; position description, grade, salary; SSN; work history; complaint; history of the case; applicable law; working papers of attorneys; testimony of witnesses; background investigation materials, records subject to complaint, request, or litigation; correspondence; damage reports; contracts, accident reports, pleadings; affidavits; credit ratings; medical diagnoses and prognoses; doctor's bills; estimates of repair costs; invoices; litigation reports; and financial data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The system is authorized by one or more of the following statutes or Executive Orders:

Freedom of Information Act, 5 U.S.C. 552 as amended; the Privacy Act of 1974, 5 U.S.C. 552a; 5 U.S.C., Part II (Civil Service Commission); 5 U.S.C., Chapter 33 (examination, selection and placement); Equal Employment Opportunity Act of 1972, 5 U.S.C. 5108, 5314–5316 and 42 U.S.C. 20003, et seq.; 5 U.S.C. 7151–7154 (antidiscrimination in employment); 5 U.S.C. 7301 (regulation of conduct); 5 U.S.C. 7501, note (adverse actions); 5 U.S.C., Chapter 77 (appeals); title 11 U.S.C. (bankruptcy); Federal Tort Claims Act, 28 U.S.C. 1291, 1346(b)(c), 1402(b), 1504, 2110, 2401(b), 2402, 2411(b), 2412(c), 2671–2680; 31 U.S.C. 191 (debts owed by or due to U.S.); Federal Claims Collection Act of 1972, 31 U.S.C. 951–953, 341 U.S.C. 240–243 (settlement of claims); E.O. 6166 Reorganization of Executive Agencies; E.O. 10577, Amending the Civil Service Rules and Authorizing a new Appointment System for the Competitive Service; E.O. 11491, Labor-Management Relations in the Federal Service; E.O. 11787, Revoking Executive Order 10987, Relating to Agency Systems for Appeals from Adverse Actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

Records are used to give general legal advice, as requested, throughout NARA and to prepare attorneys for hearings and trials, to reference past actions, and to maintain internal statistics. Information may be released to the Department of Justice in review, settlement, defense, and prosecution of claims, complaints, and law suits involving contracts, torts, debts, bankruptcy, personnel adverse action, EEO, unit determination, unfair labor practices, and Freedom of Information and Privacy Act requests. The routine use statements A, B, C, E, F, and G, described in the appendix following the NARA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper.

RETRIEVABILITY:

Manual, by name.

SAFEGUARDS:

Records are stored in secured buildings; available to authorized persons only.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the NARA Records Maintenance and Disposition Manual.

SYSTEM MANAGER(S) AND ADDRESS:

The system manager for the system is: Director, Legal Services; Staff (NSL).

NOTIFICATION PROCEDURE:

NARA notification procedures are contained in 36 CFR Part 1202.

RECORD ACCESS PROCEDURES:

NARA procedures for record access are contained in 36 CFR Part 1202.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

Information in this system of records comes from one or more of the following sources: Federal employees and private parties involved in torts, contracts, personnel actions, unfair labor practices, and debts concerning the Federal Government; general law texts and sources; Dun and Bradstreet and other sources of financial information; law enforcement officers; and witnesses.

NARA 19

SYSTEM NAME:

Workers Compensation Case Files, NARA.

SYSTEM LOCATION:

This system of records is located in the personnel offices of NARA at the locations listed in the appendix following the NARA Notices and the offices of all supervisors who have had employees injured on the job or other occupational health problems with employees supervised.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

NARA employees who have sustained injuries or other occupational health problems.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains accident reports (including CA–1 & 2: Federal Employees Notice of Injury or Occupational Disease); claims for compensation for injury or occupation disease (CA–4); and claims for continuance of compensation on account of disability (CA–8).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. Chap. 81 (Compensation for Work Injuries) and 5 U.S.C. 7203 and 7901.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records in this system of records are used to identify and record those employees who have sustained injuries or other occupational health problems and provide information required by applicable law to be disclosed to a Federal, State, or local public health service agency concerning individuals who have contracted certain communicable diseases or conditions. Such information is used to prevent further outbreak of the disease or condition and is used in connection with a claim for benefits filed by an employee. The routine use statements A, B, C, F, and G, described in the appendix following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file cabinets.

RETRIEVABILITY:

Filed alphabetically at each location by name.

SAFEGUARDS:

When not in use by an authorized person, these records are stored in lockable metal file cabinets or in secured rooms.

RETENTION AND DISPOSAL:

Disposition of records shall be in accordance with the NARA Records Maintenance and Disposition Manual.

SYSTEM MANAGER(S) AND ADDRESS:

The Director, Personnel Services Division, 601 D Streets NW, Washington, DC 20408. Mailing address: National Archives (NAP), Washington, DC 20408.

NOTIFICATION PROCEDURE:

Current NARA employees may obtain information about whether they are a part of this system of records from their supervisor or from their personnel officer at the appropriate address listed in the appendix following the NARA Notices, or from the Director, Personnel Services Division at the address noted above, whichever is applicable. Former NARA employees may obtain information from the personnel officers at the addresses listed in the appendix.

RECORD ACCESS PROCEDURE:

Requests from current NARA employees to gain access to information pertaining to them should be directed to their supervisor or to their personnel officer at the appropriate address listed in the appendix following the NARA Notices, or to the Director, Personnel Services Division at the address noted above, whichever is applicable. Former NARA employees should direct requests to gain access to information pertaining to them to the appropriate personnel officer at the address listed in the appendix. For identification requirements, refer to the agency regulations as outlined in 36 CFR Part 1202.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

The information in this system of records is provided by the individuals to whom the records pertain, by supervisors required to complete various forms, or by the personnel specialists who prepare various records or claims.

NARA 20

SYSTEM NAME:

Reviewer/Consultant File, NARA.

SYSTEM LOCATION:

This system of records is located at the National Historical Publications and Records Commission, 1100 Pennsylvania Avenue NW, Washington, DC 20408.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Archival reviewers and consultants who apply to serve as consultants or reviewers for the National Historical Publications and Records Commission's (NHPRC) records grant program.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical information about the reviewers and consultants including name, address, telephone number, education, professional vita, publications, archival skills, archival and historical records experience, and program evaluation experience.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

44 U.S.C. 2501–2506.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The biographical material is used by NHPRC staff principally in the records grant program for selecting reviewers to

evaluate proposals received by NHPRC and for proposing possible archival consultants for those individuals who have received grants. The routine use statement F, described in the appendix following the NARA Notices, also applies to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders.

RETRIEVABILITY:

Filed alphabetically by name of individual.

SAFEGUARDS:

During normal hours of operation, records are maintained in areas accessible only to authorized personnel of NARA. After hours, the building has security guards and/or doors are secured and all entrances are monitored by electronic surveillance equipment.

RETENTION AND DISPOSAL:

Records are destroyed when no longer needed for administrative purposes.

SYSTEM MANAGER(S) AND ADDRESS:

The official responsible for the system is the Executive Director, National Historical Publications and Records Commission, 1100 Pennsylvania Avenue NW., Washington, DC 20408. Mailing address: National Historical Publications and Records Commission (NP), Washington, DC 20408.

NOTIFICATION PROCEDURE:

Inquiries by individuals as to whether the system contains a record pertaining to themselves should be addressed to the system manager.

RECORD ACCESS PROCEDURES:

Requests from individuals for access to records should be addressed to the system manager. In person requests may be made during normal business hours at 1100 Pennsylvania Avenue NW., Washington, DC. For written requests individuals should provide full name, address, telephone number, and approximate date of communication with the Commission. For personal visits, individuals should be able to provide some acceptable identification such as a driver's license or employee identification card. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

Archival experts who have volunteered to serve as reviewers or consultants.

NARA 21

SYSTEM NAME:

OPM Government-wide Notices. The National Archives and Records Administration maintains personnel records and files which are part of the Office of Personnel Management's (OPM) system of records or subject to control by OPM. These systems are as follows:

OPM/GOVT–1 General personnel records.
OPM/GOVT–3 Records of Adverse Actions and Actions Based on Unacceptable Performance.
OPM/GOVT–4 Executive Branch Public Financial Disclosure Reports and Other Ethics Program Records.
OPM/GOVT–7 Applicant race, sex, ethnicity and disability status records.
OPM/GOVT–9 Position classification review and retained rate of pay appeals.

SYSTEM LOCATION:

The above designated systems are located in the NARA personnel offices at the locations listed in the appendix following the NARA notices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

See OPM/GOVT–1, 3, 4, 7, and 9.

CATEGORIES OF RECORDS IN THE SYSTEM:

See OPM/GOVT–1, 3, 4, 7, and 9.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

See OPM/GOVT–1, 3, 4, 7, and 9.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See OPM/GOVT–1, 3, 4, 7, and 9.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and card files, magnetic tapes and disks, and computer printouts.

RETRIEVABILITY:

The records within this system are primarily retrieved by name.

SAFEGUARDS:

When not in use by an authorized person, these records are stored in lockable file cabinets, lockable desk drawers, and/or in secured rooms.

RETENTION AND DISPOSAL:

Disposition of these records shall be in accordance with General Records Schedules.

SYSTEM MANAGER(S) AND ADDRESS:

The Director, Personnel Services Division, 601 D Street NW., Washington, DC 20408. Mailing address: National Archives (NAP), Washington, DC 20408

NOTIFICATION PROCEDURE:

Current NARA employees may obtain information about whether they are a part of these systems of records from their personnel officer at the appropriate address listed in the appendix following the NARA Notices. Former NARA employees may obtain information as set forth in the OPM system notices.

RECORD ACCESS PROCEDURES:

Requests from current NARA employees to gain access to information pertaining to them should be directed to their personnel officer at the appropriate address listed in the appendix following the NARA Notices. Former NARA employees should direct requests to gain access to information pertaining to them as set forth in the OPM system notices.

CONTESTING RECORD PROCEDURES:

NARA rules for access to records and for contesting the contents and appealing initial determination are found in 36 CFR Part 1202. OPM rules are found in 5 CFR Part 297.

RECORD SOURCE CATEGORIES:

See OPM/GOVT–1, 3, 4, 7, and 9.

NARA 22

SYSTEM NAME:

Employee Related Files, NARA.

SYSTEM LOCATION:

This system of records may be maintained at the supervisory or administrative offices at all NARA facilities.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Former and current NARA employees, applicants for employment, volunteer workers, and relatives of employees of the National Personnel Records Center.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system consists of a variety of employee related records maintained by operating officials for the purpose of administering personnel matters affecting their employees and uncompensated workers. The documents include, but are not limited to, information on the individuals relating to name, social security number,

birth date, home and emergency addresses and telephone numbers, personnel actions, professional registration, qualifications, training, congressional employee relief bills, injuries, employment history, awards and other recognition, counseling, warnings, reprimands, grievances, appeals, conduct, leave, pay, attendance, work assignments, performance, assessments, applications for permits and passes, indebtedness complaints, travel, and outside employment. The documents include military service data on employees of the National Personnel Records Center and their relatives accumulated by operating officials in administering the records security program at the Center. This system does not include official personnel files which are covered by the Office of Personnel Management's systems of records OPM/GOVT–1 through 9.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Titles 5 and 31 U.S.C. generally.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records in this system of records are used to initiate requests for personnel actions, to plan and schedule training, to counsel employees on their performance, to establish a basis for proposing recommendations for disciplinary actions, and to carry out personnel management responsibilities in general. The routine use statements A, B, C, D, F, and G, described in the appendix following the NARA Notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and card files, magnetic tape and disks, and computer printouts.

RETRIEVABILITY:

The records within this system are primarily retrieved by name.

SAFEGUARDS:

When not in use by an authorized person, these records are stored in lockable file cabinets, lockable desk drawers, and/or in secured rooms.

RETENTION AND DISPOSAL:

Records are reviewed annually, documents are updated, and irrelevant documents destroyed. No copies of records are retained in this system after the original or copies of the same records have been purged from the Official Personnel Folders. When an employee leaves the agency through transfer or other separation, the records in this system are immediately forwarded to the office maintaining the Official Personnel Folder. There the records are screened to ensure that there are no records that should be permanently filed in the Official Personnel Folder. The records in this system are then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Administrative officers in NARA field facilities and all NARA supervisors maintaining employee related files. The addresses of Administrative officers and NARA supervisors are listed in the appendix following the NARA Notices.

NOTIFICATION PROCEDURE:

Information about whether an individual is a part of this system of records may be obtained from the supervisors at the appropriate repository where the individuals have records. If not known, general inquiries should be made to the appropriate Head of the Offices or Staffs. Their addresses are listed in the appendix following the NARA Notices.

RECORD ACCESS PROCEDURES:

Requests from current NARA employees to gain access to information pertaining to them should be directed to their supervisor or to their personnel officer at the appropriate address listed in the appendix following the NARA Notices, or to the Director, Personnel Services Division at the address noted above, whichever is applicable. Former NARA employees should direct requests to gain access to information pertaining to them to the appropriate personnel officer at the address listed in the appendix. For identification requirements refer to the agency regulations as outlined in 36 CFR Part 1202.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

The individuals themselves, other employees, supervisors, personnel records, and third parties submitting indebtedness complaints.

NARA 23

SYSTEM NAME:

Investigation Case Files, NARA.

SYSTEM CLASSIFICATION:

Some of the material contained in the system has been classified in the interests of the national security pursuant to Executive Order 12356.

SYSTEM LOCATION:

The system is located in the Administrative Services Division, National Archives Building, 8th and Pennsylvania Avenue NW, Washington, DC 20408.

CATEGORIES OF INDIVIDUALS IN THE SYSTEM:

Individuals covered by the system are employees, applicants for employment, and former employees of NARA and advisory committee members. Also included are researchers, employees of contractors performing custodial or guard services in buildings under NARA jurisdiction, individuals who have been the source of a complaint or an allegation that a crime has taken place, witnesses having information or evidence concerning an investigation and suspects in criminal, administrative, or civil actions.

CATEGORIES OF RECORDS IN THE SYSTEM:

Investigative files contain information such as name, date and place of birth, experience, and investigatory material.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. App. Section 2 et seq.; Executive Order 10405, April 27, 1953; Executive Order 11478, August 8, 1969; Executive Order 12356, April 2, 1982; Executive Order 11246, September 24, 1965; and 40 U.S.C. 276a through a–7, 276c, 318 (a) through (d), and 327 through 331.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The routine use statements A, B, C, and G, described in the appendix following the NARA Notices, apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in files and file folders.

RETRIEVABILITY:

Paper records are retrieved manually by name from files that are indexed alphabetically and filed numerically by location and incident.

SAFEGUARDS:

Paper records are stored in locked alarmed vault type rooms and/or three-way combination dial safes with access limited to authorized personnel.

SYSTEM MANAGER(S) AND ADDRESS:

The official responsible for the system is the Director of Administrative Services, 8th and Pennsylvania Avenue NW., Washington, DC 20408. Mailing address: Administrative Services Division (NAS), Washington, DC 20408.

NOTIFICATION PROCEDURE:

Inquiries made by individuals as to whether the system contains a record pertaining to themselves should be addressed to the Director, Administrative Services Division (NAS), 8th and Pennsylvania Avenue NW., Washington, DC 20408.

RECORD ACCESS PROCEDURES:

Requests from individuals for access to records should be addressed to the Administrative Services Division, and should include full name (maiden name where appropriate), address, and date and place of birth. Only general inquiries may be made by phone.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

Individuals, employees, informants, law enforcement agencies, other Government agencies, intelligence sources, employers, references, co-workers, neighbors, and educational institutions.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a(k)(1), (k)(2), and (k)(5), this system of records is exempt from subsections (c)(3); (d); (e)(1); (e)(4) (G), (H), and (I); and (f) of the Privacy Act of 1974. The system is exempt:

a. To the extent that the system consists of investigatory material compiled for law enforcement purposes; however, if any individual is denied any right, privilege, or benefit to which the individual would otherwise be eligible as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a person who furnished information to the Government under an express promise that the identity of the person would be held in confidence, or, prior to the effective date of the Act, under an implied promise that the identity of the person would be held in confidence; and

b. To the extent the system consists of investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified material, but only to the extent that the disclosure of such material would reveal the identity of a person who furnished information to the Government under an express promise that the identity of the person would be held in confidence, or, prior to the effective date of the Act, under an implied promise that the identity of the person would be held in confidence.

This system has been exempted to maintain the efficacy and integrity of lawful investigations conducted pursuant to the Administrative Services Division's law enforcement responsibilities and responsibilities in the areas of Federal employment, Government contracts, and access to security classified information.

NARA 24

SYSTEM NAME:

Personnel Security Files, NARA.

SYSTEM CLASSIFICATION:

Some of the material contained in the system has been classified in the interests of the national security pursuant to Executive Order 12356.

SYSTEM LOCATION:

Personnel security files are maintained in the Personnel Services Division (NAP), 601 D Street NW., Washington, DC 20408. Records relating to violations of information security regulations are maintained by the Administrative Services Division (NAS), National Archives Building, 8th and Pennsylvania Avenue NW., Washington, DC 20408.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals covered by the system are employees, applicants for employment, and former employees of NARA. Also included are researchers, experts or consultants, and employees of contractors performing services under NARA jurisdiction.

CATEGORIES OF RECORDS IN THE SYSTEM:

Personnel security files contain information such as name, date and place of birth, address, social security number, education, occupation, experience, and investigatory material. Information security files contain records of security violations which may include employees' names and positions.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450, April 27, 1953, as amended; Executive Order 12356, April 2, 1982; 31 U.S.C. 686; and 40 U.S.C. 318 (a) through (d).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records in this system of records are used as a basis for issuance of security and ADP clearances and for recommending administrative action against employees found to be in violation of NARA information security regulations. The routine use statements A and F, described in the appendix following the NARA notices, also apply to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records in file folders and microfiche in cabinets.

RETRIEVABILITY:

Paper records are retrieved manually by name from files that are indexed alphabetically and filed numerically by location and incident. Microfiche records are filed alphabetically or by social security number.

SAFEGUARDS:

Records are stored in locked, alarmed room and/or three way combination dial safes with access limited to authorized employees. Information is released only to officials on a need-to-know basis.

RETENTION AND DISPOSAL:

Disposition of these records is in accordance with the NARA Records Maintenance and Disposition Manual.

SYSTEM MANAGER(S) AND ADDRESS:

The official responsible for the personnel security files is the Director of Personnel Services (NAP), 601 D Street, NW., Washington, DC 20408. The official responsible for files relating to violations of information security regulations is the Director of Administrative Services (NAS), 8th and Pennsylvania Avenue NW., Washington, DC 20408.

NOTIFICATION PROCEDURE:

Inquiries by individuals as to whether the system contains a record pertaining to themselves should be addressed to the applicable system manager.

RECORD ACCESS PROCEDURES:

Requests from individuals for access to records should be addressed to the applicable system manager and should include full name (maiden name where appropriate), address, and date and place of birth. Only general inquiries may be made by telephone.

CONTESTING RECORD PROCEDURES:

NARA rules for contesting the contents and appealing initial determinations are found in 36 CFR Part 1202.

RECORD SOURCE CATEGORIES:

Individuals, employees, informants, law enforcement agencies, other Government agencies, employees references, co-workers, neighbors, educational institutions, and intelligence sources.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

In accordance with 5 U.S.C. 552a (k)(1), (k)(2), and (k)(5), the personnel security case files in this system of records are exempt from subsections (c)(3); (d); (e)(1); (e)(4) (G), (H), and (I); and (f) of the Privacy Act of 1974, as amended. The system is exempt:

a. To the extent that the system consists of investigatory material compiled for law enforcement purposes; however, if any individual is denied any right, privilege, or benefit to which the individual would otherwise be eligible as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a person who furnished information to the Government under an express promise that the identity of the person would be held in confidence or, prior to the effective date of the Act, under an implied promise that the identity of the person would be held in confidence; and

b. To the extent the system consists of investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified material, but only to the extent that the disclosure of such material would reveal the identity of a person who furnished information to the Government under an express promise that the identity of the person would be held in confidence, or, prior to the effective date of the Act, under an implied promise that the identity of the person would be held in confidence.

This system has been exempted to maintain the efficacy and integrity of lawful investigations conducted pursuant to the Administrative Services Division's and the Personnel Services Division's responsibilities in the areas of Federal employment, Government contracts, and access to security classified information.

Appendix

The following routine use statements will apply to National Archives and Records Administration notices where indicated:

A. Routine Use-Law Enforcement: In the event that a system of records maintained by this agency to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records may be referred, as a routine use, to the appropriate agency, whether Federal, State, local, or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

B. Routine Use-Disclosure When Requesting Information: A record from this system of records may be disclosed as a routine use to a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, such as current licenses, if necessary, to obtain information relevant to an agency decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

C. Routine Use-Disclosure of Requested Information: A record from this system of records may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, conducting a security or suitability investigation, classifying a job, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant, or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

D. Routine Use-Grievance, Complaint, Appeal: A record from this system of records may be disclosed to an authorized appeal or grievance examiner, formal complaints examiner, equal employment opportunity investigator, arbitrator, or other duly authorized official engaged in investigation or settlement of a grievance, complaint, or appeal filed by an employee. A record from this system of records may be disclosed to the United States Office of Personnel Management in accordance with its responsibility for evaluation of Federal personnel management. To the extent that official personnel records in the custody of NARA are covered within the system of records published by the Office of Personnel Management as Government-wide records, those records will be considered as a part of that Government-wide system. Other official personnel records covered by notices published by NARA and considered to be separate systems of records may be transferred to the Office of Personnel Management in accordance with official personnel programs and activities as a routine use.

E. Routine Use-Congressional Inquiries: A record from this system of records may be disclosed as a routine use to a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the request of the individual about whom the record is maintained.

F. Routine Use-NARA Agents: A record from this system of records may be disclosed as a routine use to an expert, consultant, or a contractor of NARA to the extent necessary for them to assist NARA in the performance of its duties.

G. Routine Use-Department of Justice/Courts: A record from this system of records may be disclosed to the Department of Justice or in a proceeding before a court or adjudicative body before which NARA is authorized to appear, when (a) NARA, or any component thereof; or, (b) any employee of NARA in his or her official capacity; or, (c) any employee of NARA in his or her individual capacity where the Department of Justice or NARA has agreed to represent the employee; or (d) the United States, where NARA determines that litigation is likely to affect the agency or any of its components, is a party to litigation or has an interest in such litigation, and the use of such records by the Department of Justice or by NARA before a court or adjudictive body is deemed by NARA to be relevant and necessary to the litigation, provided, however, that in each case, NARA determines that disclosure of the records is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

H. Routine Use-MSPB, FLRA, and EEOC: Information from this system of records may be disclosed to officials of the Merit Systems Protection Board or Federal Labor Authority, or the Equal Employment Opportunity Commission when requested in performance of their authorized duties.

Appendix—Addresses of Locations

Washington, DC Metropolitan Area Facilities

National Archives Building, 8th and Pennsylvania Avenue NW., Washington, DC. Mailing Address: National Archives and Records Administration, Washington, DC 20408.

National Audiovisual Center, 8700 Edgeworth Drive, Capitol Heights, MD 20743–3701.

National Historical Publications and Records Commission, Old Post Office Building, 1100 Pennsylvania Avenue, Washington, DC. Mailing Address: National Historical Publications and Records Commission (NP), Washington, DC 20408.

Office of the Federal Register, 1100 L Street NW., Washington, DC. Mailing Address: National Archives and Records Administration (NF), Washington, DC 20408.

Pickett Street Annex, 841–885 South Pickett Street, Alexandria, VA. Mailing Address: National Archives and Records Administration (NNSC), Washington, DC 20408.

Washington National Records Center, 4205 Suitland Road, Suitland, MD. Mailing Address: Washington National Records Center, Washington, DC 20409.

Presidential Libraries

Herbert Hoover Library, Parkside Drive, West Branch, IA 52358.
Franklin D. Roosevelt Library, 259 Albany Road, Hyde Park, NY 12538.
Harry S. Truman Library, U.S. Highway 24 and Delaware Street, Independence, MO 64050.
Dwight D. Eisenhower Library, Southeast Fourth Street, Abilene, KS 67410.
John Fitzgerald Kennedy Library, Morrissey Boulevard, Columbia Point, Boston, MA 02125.
Lyndon Baines Johnson Library, 2313 Red River Street, Austin, TX 78705.
Gerald R. Ford Library, 1000 Beal Avenue, Ann Arbor, MI 48109–2114.
Gerald R. Ford Museum, 303 Pearl Street, NW, Grand Rapids, MI 49504.
Carter Presidential Materials Staff, 77 Forsyth Street, SW, Atlanta, GA 30303.
Nixon Presidential Materials Staff, 845 South Pickett Street, Alexandria, VA. Mailing Address: National Archives and Records Administration (NLN), Washington, DC 20408.

National Archives Centers containing Federal Records Centers and National Archives Field Branches

380 Trapelo Road, Waltham, MA 02154.
Building 22, Military Ocean Terminal, Bayonne, NJ 07002–5388.
1557 St. Joseph Avenue, East Point, GA 30344.
7358 Pulaski Road, Chicago, IL 60629.
2312 East Bannister Road, Kansas City, MO 64131.
501 West Felix Street (Mailing address: P.O. Box 6216), Fort Worth, TX 76115.
Denver Federal Center, Building 48 (Mailing address: P.O. Box 25307), Denver, CO 80225.
1000 Commodore Drive, San Bruno, CA 94066.
24000 Avila Road (Mailing address: P.O. Box 6719), Laguna Niguel, CA 92677–6719.
6125 Sand Point Way, NE, Seattle, WA 98115.

National Archives Field Branches Not Located in National Archives Centers

9th and Market Streets, Room 1350, Philadelphia, PA 19107.

Federal Records Centers Not Located in National Archives Centers

5000 Wissahickon Avenue, Philadelphia, PA 19144.
3150 Springboro Road, Dayton, OH 45439.
National Personnel Records Center, Civilian Personnel Records, 111 Winnebago Street, St. Louis, MO 63118.
National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132.

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Federal Register

Friday
March 7, 1986

Part V

Department of the Interior

Minerals Management Service

30 CFR Part 216

Production Accounting and Auditing System; Reporting and Recordkeeping Requirements; Final Rule

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 216

Production Accounting and Auditing System; Reporting and Recordkeeping Requirements

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This final rule prescribes the information collection requirements necessary to verify that mineral production quantities have been correctly reported and used in calculating royalties due from Federal and Indian leases, including the Outer Continental Shelf. This system is called the Production Accounting and Auditing System (PAAS).

EFFECTIVE DATE: April 7, 1986.

FOR FURTHER INFORMATION CONTACT: Lucy R. Querques on (303) 231–3865 or FTS 326–3865.

SUPPLEMENTARY INFORMATION: The principal authors of this final rulemaking are Peter Rutledge, John Price, Billie Clark, and Martin Grieshaber of the Minerals Management Service, Lakewood, Colorado.

I. Background

On April 1, 1985 (50 FR 12828), MMS proposed regulations for the implementation of the PAAS.

In January 1982, the Commission on Fiscal Accountability of the Nation's Energy Resources (Commission) made several recommendations to improve internal controls of accounting for royalties due the Government from Federal and Indian leases. The term "Federal leases" includes Outer Continental Shelf (OCS) lands. One of the primary purposes for which the PAAS was developed by the MMS was to respond to the Commission recommendation:

"That the Royalty Managers incorporate production data into the . . . system in order to cross-check the data for all leases for each payment period."

Section 101(a) of the Federal Oil and Gas Royalty Management Act of 1982 (Act), 30 U.S.C. 1711(a), provides that, "The Secretary shall establish a comprehensive inspection, collection and fiscal and production accounting and auditing system. . . ." In addition, section 103(a) of the Act, 30 U.S.C. 1713, states that:

"A lessee, operator, or other person directly involved in developing, producing, transporting, purchasing, or selling oil or gas subject to this Act through the point of first sale or the point of royalty computation, whichever is later, shall establish and maintain any records, make any reports, and provide any information that the Secretary may, by rule, reasonably require for the purposes of implementing this Act. . . ."

The Department is implementing similar cross-checks for solid materials in response to the statement of the Commission that, ". . . it appears that the general problems of verifying production, . . . and designing an effective audit program are common to all minerals." Report of the Commission at 181.

The PAAS is an integrated computer system, based upon production and processing reports submitted by lease and facility measurement point operators, designed to track mineral production on Federal and Indian lands, including the Outer Continental Shelf, from the source of production to the point of disposition with emphasis on the point of royalty determination, and/or point of sale, whichever is applicable.

The Auditing and Financial System (AFS), operated by MMS, will provide payment and sales volumes and values reported by payors. These data will be compared to lease-level production and processing volumes reported to PAAS by producers and facility operators. This comparison will enable the MMS to verify that proper royalties are being received for all minerals produced.

The PAAS is based upon an information collection system composed of eight forms of oil and gas. Three forms are needed for solid mineral leases; one form is applicable to all minerals. Some of these forms are one-time reports. However, all lease operators are required to periodically (usually monthly) submit either Form MMS–4054 for oil and gas, or Form MMS–4059 for solid minerals. Other forms are for selected use, such as the Form MMS–4056, which is required monthly only from gas plant operators, and Form MMS–4058, required only from operators of facilities or measurement devices handling commingled production.

The regulations herein prescribe which person is to file each form and when the report is due. They also designate when the rules will become applicable to operators who are not already reporting to the PAAS on the effective date of this rule. All offshore leases and all solid mineral leases issued on or after the effective date of this rule shall be subject to the requirements of this part without any conversion period. The report forms covered by this rule are listed below, together with the applicable section number that explains the use of the form:

Form No. and Name of form	Section reference
MMS–4050—Mine Information Form (MIF)	216.201
MMS–4051—Facility and Measurement Information Form and Supplement (FMIF and FMIF–S).	216.202 and 216.51
MMS–4052—Well Information Form (WIF)	216.52
MMS–4053—First Purchaser Report (FPR)	216.53
MMS–4054—Oil and Gas Operations Report (OGOR).	216.54
MMS–4055—Gas Analysis Report (GAR)	216.55
MMS–4056—Gas Plant Operations Report (GPOR).	216.56
MMS–4057—Fractionation Plant Operations Report (FPOR).	216.57
MMS–4058—Production Allocation Schedule Report (PASR).	216.58
MMS–4059—Solid Minerals Operations Report (SMOR).	216.203
MMS–4060—Solid Minerals Facility Report (SMFR).	216.204
MMS–4061—API Well Number Change Report (ANCR).	216.61

The Mine Information Form (Form MMS–4050) is required by MMS to identify the mine, the products recovered, the leases that make up the mine, and the mining methods used on each lease.

The Facility and Measurement Information Form (Form MMS–4051) is required by MMS to precisely identify the facilities where oil and gas production is stored or processed and the metering points where production is measured for sale or transfer. The information is used for reference by field operations personnel and auditors to assure that all production is accounted for properly.

The Well Information Form (Form MMS–4052) is required by MMS to obtain data or confirmation of data from each lease operator to assure that all wells are identified. Primary identification is by the American Petroleum Institute (API) number. Each well on a lease is identified by API and operator well number, producing interval, location, well status, date of first production, and producing reservoir or formation name.

The First Purchaser Report (Form MMS–4053) is required by MMS to obtain product prices from selected first purchasers of any product attributable to a Federal or Indian mineral lease. The information is used by MMS auditors to independently verify prices and quantities reported by lease operators.

The Oil and Gas Operations Report (Form MMS–4054) is required by MMS to identify all operations on production and disposition of oil and gas from Federal and Indian lands. Monthly production information will be compared with monthly data on sales and royalty from Form MMS–2014, Report of Sales and Royalty Remittance,

to ensure that proper royalties are paid on the oil and gas reported as produced or sold.

The Gas Analysis Report (Form MMS–4055) is required by MMS to identify the separate components of natural gas production. The information on the GAR is used in conjunction with the GPOR and OGOR to make lease-level AFS/PAAS comparisons on processed and natural gas liquids.

The Gas Plant Operations Report (Form MMS–4056) is required by MMS to identify the disposition and components of natural gas produced from or allocated to Federal and/or Indian leases. MMS uses the data to expected residue gas and natural gas liquids production and to determine royalties due.

The Fractionation Plant Operators Report (Form MMS–4057) is required by MMS to identify the volumes of raw make transferred to the plant and of natural gas liquids produced. MMS uses the information to determine the production of specific components on which royalties are due, in conjunction with data from the Gas Plant Operations Report.

The Production Allocation Schedule Report (Form MMS–4058) is required by MMS to determine whether sales reported by the leasee are reasonable in cases where such sales are from production which has been commingled. Each line identifies a lease or measurement point and its delivered production and allocated sales or transfer volumes.

The Solid Minerals Operations Report (Form MMS–4059) is required by MMS to identify, for each lease and lease product, the beginning inventory, quantity produced, processing losses, net production, quality of production, type of disposition, quantity disposed of, identification of the processing facility, measurement point number at which disposition quantity is determined, and ending inventory. For mines from which production is sold after secondary processing or from remote storage, the form identifies the lease or development contract credited with an allocated part of the production, the product and quantity sold, and the facility from which it was sold.

The Solid Minerals Facility Report (Form MMS–4060) is required by MMS to identify for each mineral processed by a mineral processing facility the mine and measuring point from which a mineral was received, the type of product received, and the quantity and quality of inputs and outputs. The report is also used by MMS to identify, for each product and its source mine, the beginning inventory, raw materials received during the reporting period, amount of production, type of disposition, quantity sold or transferred, the facility or measuring point to which it is transferred, and ending inventory. MMS uses this information to insure that lease production is accurately tracked from the mine to the point of royalty determination, when royalty is determined after secondary processing. The information obtained is compared with that from the Solid Minerals Operations Report.

The API Well Number Change Report (Form MMS–4061) is required when a well with a temporary identification number is assigned a permanent American Petroleum Institute (API) well number or when the API well number and producing interval code combination used in the PAAS is in error and needs to be changed. The report gives the existing well number and producing interval and the new well number and producing interval. MMS uses the information to change the identification of the well in the data base.

The PAAS pilot program was operated with voluntary participants from both the onshore and offshore environment. Subsequent conversions have brought all OCS operators into the system as well as most of the solid mineral operators. These regulations will apply immediately to all reporters currently submitting reports to the PAAS. If, in the future, reporters are to be converted to the PAAS, they will be given notice one year prior to the date of first reporting (the conversion period). This period is intended to provide the reporter with ample time to gather reference data and receive training with respect to the PAAS reporting requirements. The time period between the notification of conversion and the date of first reporting may be less than one year at the request of the reporter being converted to the PAAS reporting guidelines and regulations.

During the conversion period, the reporter is required by the rules to file the Facility and Measurement Information Form (Form MMS–4051), the Well Information Form (Form MMS–4052), or the Mine Information Report (Form MMS–4050), as applicable. The provisions on applicability are in § 216.20 of the rules.

MMS will specifically notify each reporter being converted to the PAAS of the startup schedules for reporting under the PAAS. Simultaneously with startup notification, MMS will provide each reporter with a schedule to discontinue reporting using existing production reports 3160–6 (formerly 9–329 and 9–329–1), 9–152, 9–373A, 9–128, 9–128a, 9–128b, 9–128c, 9–128d, 9–368, 9–1146, etc. For some reporters there may be a short period of overlap of the old and new reporting systems to assure a smooth transition. These regulations will apply to newly converted reporters as MMS directs during the conversion period. Following the completion of the conversion to the PAAS, the Department will promulgate regulations removing the regulatory requirements for submission of existing production reporting forms from the regulations in 43 CFR Part 3160. This rulemaking amends 30 CFR Part 216 by adding Subparts A, B, and E containing §§ 216.1, 216.2, 216.6, 216.10, 216.20, 216.25, 216.30, 216.40, 216.50, 216.51, 216.52, 216.53, 216.54, 216.55, 216.56, 216.57, 216.58, 216.61, 216.200, 216.201, 216.202, 216.203, and 216.204.

II. Summary of Rules Adopted

The rule being adopted is substantially the same as the proposed rule. Therefore, much of the discussion in the preamble to the proposed rule applies to the final rule. Where significant changes are being made to the final rules, they are discussed in the preamble.

The provisions of Part 216 establish the reporting requirements for the PAAS. This part indicates the types of reports which must be filed in order for the PAAS to accomplish its stated goal of tracking mineral production on Federal and Indian lands from the source of production to the point of disposition with emphasis on the point of royalty determination and/or point of sale, whichever is applicable.

III. Comments Received on Proposed Rule—General

The proposed rulemaking published April 1, 1985 (50 FR 12828), provided for a 60-day public comment period which ended May 31, 1985, and was extended to June 17, 1985. All comments received during that time period are addressed in this section, and the text of these regulations has been changed to reflect comments as appropriate.

Six commenters thought the conversion of onshore operations to the PAAS should be delayed until the system can be reevaluated and a decision reached on the final scope and design of the PAAS. Two commenters stated that the onshore conversion should never occur and that current reporting requirements are adequate. Seven commenters said the design and reporting requirements of the system exceeded the information reasonably required and that the system would be

overburdened by details concerning the amount and type of data being collected.

The Royalty Management Action Plan recently issued by DOI, calls for a study of the PAAS, including the advantages and disadvantages of proceeding with the conversion of the remaining onshore Federal and Indian leases to the PAAS. At present, 2.5 percent of onshore leases are in the PAAS as a result of the pilot program effort. To date, two reporters participating in the pilot program have requested to convert the remainder of their onshore leases to PAAS to eliminate the need for maintaining two separate production reporting systems—one automated and one manual. MMS is allowing these conversions to take place on a case-by-case basis to reduce reporting burden and also to obtain additional information about the feasibility of large-scale onshore lease PAAS reporting.

As part of the Department's Lease Management Information Study, a report will be prepared and issued in late fall 1986. Among the specific aspects of onshore reporting to be studied are:

—Experiences of offshore reporters that affect large onshore operators.
—The problems associated with developing and maintaining a large reference data base for onshore leases.
—Alternatives for PAAS reporting for small operators with few leases or minimal production.
—Industry burden associated with extension of PAAS into the onshore environment.
—The feasibility of obtaining some or all of the PAAS data requirements from other sources.
—The feasibility of a less frequent reporting cycle for onshore Federal and Indian leases.

Four commenters stated that the PAAS implementation should be delayed until the valuation guidelines have been finalized.

The PAAS is a production accounting system. The current valuation guidelines, as well as any future revisions, will not affect the reporting requirements in the PAAS nor will the PAAS affect the valuation guidelines.

Four commenters said that MMS should delay further expansion of the PAAS until the AFS is correct and fully operational.

The PAAS collects production volume, well status, and disposition information which is then compared with volumes reported to the AFS. Functionally, the PAAS does not depend on the AFS which is undergoing conversion to the new mainframe computer purchased by MMS.

Two commenters said that MMS should test and prove the capability of the AFS/PAAS exception processing subsystem.

The complete exception processing subsystem of the PAAS, including the AFS/PAAS comparison, has been tested. The system has proven its capability to make accurate comparisons of PAAS and AFS data using information from pilot companies and data being collected from all offshore reporters.

Six commenters stated that, based upon experience gained during the PAAS pilot and subsequent offshore conversion, the proposed 180-day notice of conversion was too short.

MMS agrees and has changed this time interval to one year, allowing a shorter period if requested by the reporter.

One commenter thought that the PAAS would be limited by hardware capacity if further conversion efforts were not delayed.

The acquisition of a new mainframe computer by Royalty Management and the conversion of the AFS to the more sophisticated and larger computer will make available the hardware which currently houses the AFS data bases. This additional computer capacity should alleviate any concerns about the potential expansion of the PAAS to onshore operations.

One commenter stated that the PAAS Reporter Handbook should be included in the regulations because it contains the complex and sophisticated requirements of the PAAS.

The purpose of the regulations is to outline which forms and what data are required by the PAAS. The various codes, field by field explanations, and edits are part of the implementation of the PAAS, not the regulatory requirements.

Numerous commenters questioned the necessity of reporting more than operations and production data at the lease level. They thought the reporting should end with the OGOR and corroborative reporting was not warranted; therefore, the GAR, GPOR, FPOR, and PASR forms should be eliminated.

The information contained on the GAR, GPOR, and FPOR is necessary to meet the stated objective of the PAAS which is to track the product from the source to the point of sale or royalty determination. In the case of gas, this may be the tailgate of the gas or fractionation plant. Volumes for which royalties are due are reported to the AFS at this level. Because of the nature of the comments received, we intend to establish a nine-month trial period to assess the effectiveness of the data being collected on these forms. One year from the effective date of these regulations, MMS will report the results of this analysis. If the reporting requirements for these forms change, based upon this analysis, the appropriate regulatory action will be pursued. Until such time, pursuant to the regulations, reporting is required on these forms.

The PASR provides the PAAS with corroborative data pertaining to the allocation of sales back to the individual lease/agreements involved in commingling situations. Upon recommendations from industry representatives, following the pilot phase, the form was extensively redesigned to more accurately reflect actual operations. It is the opinion of MMS that PASR reporting is essential to the integrity of the PAAS.

Fifteen commenters questioned the accuracy of the $1.5 million cost burden of the proposed regulations. One main reason given for doubting the estimated cost was that the development and implementation of a PAAS reporting system had already been costly considerable sum.

In general, commenters failed to understand the basis for the $1.5 million estimate associated with additional burden on industry. The $1.5 million figure included only the estimated cost of *additional* burden hours over and above estimated burden associated with existing manual production reporting. The figure did not include costs associated with the development of automated systems or acquired or developed software which industry may have chosen to purchase to comply with the PAAS requirements. The choice to automate was not a requirement of the PAAS reporting. Currently, nine of the one hundred ninety-seven operators providing PAAS reports submit OGOR information via magnetic tape.

It is the opinion of MMS that the costs of systems purchased by industry should not be included in burden cost analysis for the following reasons:

—Trends in industry over the last ten years have led to the development of automated production accounting systems to meet industry needs. Some of those systems have been enhanced or modified to allow a company to comply with the PAAS reporting requirements. These incremental costs are minimal when compared to the sunk costs of systems development which was initiated voluntarily by industry.
—Many of the software programs acquired by industry at considerable

expense are not required by MMS to meet the PAAS reporting requirements. They are primarily aimed at allowing industry to test report data prior to submission to MMS against replicated PAAS edits to determine the extent of compliance with lease management requirements and potential liability for noncompliance.

Hence, when looked at in the proper context, MMS still maintains that the $1.5 million figure is a good estimate of the increased burden hours associated with the PAAS reporting.

Four commenters thought training should be provided to any "Reporter" required to submit a PAAS report to MMS. They questioned the intent of the wording "the MMS provides special training and assistance to small organizations" under the heading of Regulatory Flexibility Act in the preamble to the proposed rule.

The PAAS, since its inception, has relied heavily on contact with the industry. Through the American Petroleum Institute (API), Council of Petroleum Accountant Societies (COPAS), and several major oil and gas company representatives, a good working relationship with industry has been maintained. This cooperation continued during the Pilot Phase and the conversion of all OCS operators. From the beginning of the conversion effort, PAAS personnel have been available to assist the reporter through conversion training sessions and necessary follow-up visits. The knowledge gained from these experiences will continue with all future PAAS conversions.

One commenter questioned the statement made under the heading Paperwork Reduction Act of 1980 in the preamble to the proposed rule that "Information collection under provisions of § 216.30 will affect less than 10 respondents annually . . . ."

Since the inception of the PAAS, no requests for information under these provisions have been made. The 10 respondents estimate appears reasonable.

One commenter believes that some of the proposed requirements under §§ 216.201, 216.202, 216.203, and 216.204 are not needed to determine royalty payments for its Federal leases and, therefore, wants to avoid the time and cost involved in reporting information not required.

For MMS to ensure that proper royalties are being received for all minerals produced and sold, the PAAS is needed to track production and sales prior to royalty determination. Therefore, the reporting guidelines for solid minerals are necessary and appropriate.

IV. Comments Received on Proposed Rules—Specific by Section

Section 216.1 Purpose

Three commenters stated that the purpose as outlined in the proposal was broader than that enumerated in section 101(a) of the Federal Oil and Gas Royalty Management Act and, therefore, the PAAS would be expanded into a broader data collection system than was contemplated by Congress.

MMS believes that the scope of PAAS conforms with section 101(a) of the Act in that it sets up a comprehensive production accounting system that will provide the capability to accurately determine if proper royalties are being paid. The Department's Lease Management Information Study will reassess lease information data currently being received by the Department and the industry burden in supplying these data. This reassessment will include the relationship of current and future data requirements and the PAAS.

One commenter wondered if the term "agreement" used in this section is the same as "agreement" as defined in § 216.6.

Yes, the term "agreement" as used in this section is the same as defined in § 216.6.

One commenter stated that the purpose should consider the future possibility that comparisons between the PAAS and AFS can be done at the First Purchaser Division Order level.

The PAAS is designed to collect data from operators at the lease/agreement or facility level. The First Purchaser Report is included in the PAAS to be responsive to recommendations of the Linowes Commission. It provides a mechanism for collection of data for audit purposes at the request of the Royalty Compliance Division and, as such, will not be required for all reporters.

One commenter stated that the purpose should address the full implementation of the PAAS for both onshore and offshore.

The decision concerning any further implementation of the PAAS will be made as part of the Department's Lease Management Study. The regulations are appropriate for complete and accurate production reporting for both onshore and offshore operations.

Section 216.2 Scope

One commenter stated that the scope was too broad without the issuance of formal valuation guidelines because the point of royalty determination could not be conclusively identified.

The PAAS has the ability to modify the royalty determination point data so that it will be consistent with the applicable valuation guidelines.

One commenter felt that all conversion data from the calendar year in which conversion to the PAAS is being done should be loaded into the system.

The PAAS is not intended to collect historical data that has previously been supplied but simply to begin accepting reports on a monthly basis, beginning with the first month of conversion.

One commenter questioned whether leases, as mentioned in this section, include sand and gravel permits on which royalties are also paid.

Yes, sand and gravel permits are included in the intent of this section. The change in definitions in § 216.6 reflects this intent.

Section 216.6 Definitions

The commenters stated that the definition of "operator" should be identical to the definition used in the Federal Oil and Gas Royalty Management Act of 1982. They believed that the expanded definition would cause problems because it is too broad.

The PAAS definition of "operator" is meant to include all entities who have a reporting responsibility under the PAAS data collection formats. Operators of gas plants, for example, are required to submit the appropriate reports but lease-level reporting by operators of plants or facilities is not the intention of the PAAS. The definition of operator in the PAAS was expanded to include the wording found in section 103(a) of the Act. MMS believes no change is necessary.

Five commenters agreed with the definition of "first purchaser" as long as a sale between affiliates is considered a first sale for royalty purposes.

MMS does not consider a sale between affiliates to be a first sale for most royalty purposes. However, for purposes of the PAAS reporting requirements only, a transfer between affiliates falls within the definition of "first purchaser."

Four commenters stated that the definition of "raw make" should not include the phrase "and transferred to a fractionation plant for further processing" because not all raw make is transferred but is sometimes sold "as is."

The word "and" in the fourth line of the definition has been changed to "which sometimes" in order to address

all situations involving the disposition of raw make.

One commenter stated that the definition of "facility" may cause invalid information to be supplied on the FMIF and FMIF–S without formal valuation guidelines being in effect. This would result in an additional cost to industry in the event much of the data base would need to be redeveloped.

MMS believes that the final valuation guidelines, when ultimately published, will not seriously affect the PAAS in regard to the data submitted on the FMIF and FMIF–S. No compehensive changes are anticipated to be necessary.

One commenter stated that the definition of "oil or gas" did not reflect condensate.

The proposed definition has been changed to explicitly cover condensate.

One commenter noted that the definition of "measurement device" was silent as to industry-recognized metering standards.

For PAAS purposes, a "measurement device" is the mechanism (meter, scale, tank gauging) by which the volume to be reported is determined. The authority for approval of such devices is contained in 43 CFR 3162.7–2 and 3162.7–3 for onshore Federal and Indian leases and 30 CFR 250.60 and 250.61 for offshore Federal leases.

Section 216.10 Information collection

One commenter stated that a reference should be made to the comparison of production data with revenue data.

There are references made to the AFS/PAAS comparison in the final regulations.

One commenter thought that § 210.10 should be amended to reflect that the forms, together with their documentation and instructions, should have been published for public comment as a proposed rule.

The forms and their documentation have in fact been made available for public comment in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35) (PRA) and the implementing regulations. We have issued information collection notices regarding the PAAS forms in the **Federal Register** (48 FR 31473) and (50 FR 25335). These notices referenced the availability of the forms and explanatory materials for public comment. The PRA provides a mechanism for commenting of forms.

Section 216.20 Applicability

A new § 216.20 Applicability, has been added to the final rule to state clearly when the PAAS rules will become applicable to a reporter.

Section 216.21 General obligations of the reporter

Five commenters questioned the reference made to the PAAS Reporter Handbook as a source of specific guidance on the use of the forms. They thought it was possible that the Handbook could become a vehicle for changing the existing rules and regulations.

As stated above, the Handbook is intended to be an instructional tool which provides guidelines and reference data (including examples) to assist the reporter in completing the appropriate forms.

One commenter thought that the regulations should require a reporter to give notice to the lessor that reporting under the PAAS was to begin with a certain report period.

MMS believes that the one-year notification of conversion included in the regulations will provide sufficient time for contact between reporters and lessors concerning PAAS reporting.

Section 216.25 Confidentiality

Eight commenters noted that the proposed regulations made no reference to "tight hole" data and test production nor mentioned how the PAAS was going to treat such data.

The PAAS gathers production data. After acceptance of the information into the system, reports are supplied to the BLM in the case of onshore reporters and the MMS in the case of offshore reporters. Because these are the agencies that classify wells as tight holes, it is their responsibility to keep operations and test production information confidential until such time as the data is available for public inspection. Royalty Management has no facilities for the public inspection of PAAS data. If, in the future, the necessity arises for the PAAS to keep particular information confidential, a method and procedure for doing so will be developed and the reporter notified.

Seven commenters questioned the reference to geologic geophysical information and whether the PAAS intended to collect this data.

The only geologic and geophysical data collected by the PAAS is the reservoir/formation name gathered on the Well Information Form. This data is provided back to the individual reporters and the BLM on the appropriate confirmation reports. The PAAS will not collect any other geologic or geophysical information.

One commenter stated that § 216.25(a)(1) should be expanded to include references to the Tribal Leasing Act of 1938 (25 U.S.C. 396a et seq.) and the Allotted Indian Land Leasing Act of 1909 (25 U.S.C. 396).

The references have been included in the regulations.

One commenter urged the MMS to expand the confidentiality provisions of § 216.25 to also include coal quality information.

Information collected by the PAAS on the solid minerals reporting forms is regarded as confidential and all monthly activity reports supplied to the Bureau of Land Management are marked as such.

Section 216.30 Special forms and reports

Six commenters stated that this section was too vague. They thought that if special reports were required, the reports should be subject to public comment via proposed rulemaking procedures prior to implementation.

The first sentence of the regulation has been eliminated. The term "MMS" in the second sentence has been replaced with "Associate Director." The regulation has been reworded so that it will conform more closely with 30 CFR 210.105 and 250.96. Section 216.30 is included in the regulations to establish the rule referenced in section 103(a) of the Act, which empowers the Secretary to collect data determined to be necessary.

MMS disagrees that forms always must be issued through rulemaking. When MMS has the authority to collect the information, the form for doing so does not require rulemaking unless the form substantially affects the rights or obligations of the reporter.

Section 216.40 Assessments for incorrect or late reports and failure to report

Twelve commenters requested a further clarification of "incorrectly completed" because the term is so vague that assessment of penalties would be arbitrary. Nine comments contended that the proposed penalty system was excessive and made no provisions for reporters who were making a good faith effort as compared to habitually bad reporters. Two comments concerned the complexity of the system and the inability to submit 100 percent correct data. Two commenters thought the reporter should not be penalized for errors caused by typographical or footing problems or errors attributable to problems within the PAAS data base.

It is the opinion of MMS that an incorrectly completed report is one that fails to pass the system edits. The edits, as outlined in the Reporter Handbook, are designed to prevent the acceptance

of erroneous data. All late or incorrect reports, regardless of the cause, are detrimental to the PAAS and the efficient operation of the Royalty Management Program; thus, MMS wants PAAS reporting to be as accurate and timely as possible. However, MMS recognizes that some reporting problems are beyond the control of the reporters. MMS will not make assessments for those types of problems (e.g., reports delivered late because of bad weather).

Incorrect reporting may be penalized under the provisions of § 216.40 of these regulations. Assessments made under the provisions of § 216.40 do not preclude the issuance of civil penalties under 30 CFR Part 241 for habitual misreporting. Failure to report could also result in the imposition of civil penalties.

Seven commenters took exception to the interpretation of a report as being an individual line of production information.

MMS believes that for the purpose of determining accurate assessments for incorrect reporting, each line of production information on the stated forms constitutes a report. This also is consistent with the MMS definition of reports relating to assessments for reporting errors in the AFS, 30 CFR 218.56.

One commenter stated that this section should be deleted because any civil penalty authority of the Secretary related to production accounting has been subsumed into and/or preempted by section 109 of the Act.

MMS disagrees with this interpretation of the Act. Section 304(a) of the Act provides that the penalties and authorities of the Act are supplemental to, and not in derogation of, any penalties or similar authorities in other laws. The Secretary's authority for the assessments provided by § 216.40 is derived not from the Act but from the Secretary's responsibilities to administer the Mineral Leasing Act, the Outer Continental Shelf Lands Act, and other mineral leasing laws.

One commenter asked if there would be a grace period on assessments after conversion to PAAS, recommending that no assessments be made until the system is fully operational and all conversions have been made.

Assessments will not be considered until an appropriate period of time has passed following an operator's conversion to the PAAS. This time period could be as many as four report periods.

Section 216.50 [Reserved]

Section 216.51 Facility and Measurement Information Form and Supplement (FMIF and FMIF–S)

One commenter stated that the second "of" in line 19 of § 216.51(a) should be "or".

The change has been made in the final regulations.

One commenter suggested a clarification of the word "party" referenced in line 11 of § 216.51(b).

The word "party" has been changed to "person."

One commenter thought the regulations should require the operator to certify that the measurement device meets recognized standards, that a flow chart referencing measurement location with respect to the wellhead be provided, and that the regulations should provide guidance as to proper placement of the metering loop.

All these comments fall under the auspices of the appropriate operations agency and are not within the scope of the PAAS functions. No changes will be made to the proposed regulations.

One commenter was concerned about the use of zeroes and alpha o's in the same fields. He thought it was "only asking for trouble" within an already complex system.

MMS realizes that some problems may arise from allowing these two characters in the same fields. If the system is redesigned in the future, consideration will be given to not allowing these two characters in the same field.

One commenter requested a clarification as to who was responsible for submittal of the FMIF subsequent to conversion.

After conversion, Form MMS–4051 must be filed by the operator with MMS/RMP for all new, or changes to, facilities or measurement devices which are under the administrative control of the Bureau of Land Management. Updates to the PAAS data base for MMS OCS approved facilities and measurement devices will be made by the appropriate MMS office. The regulation has been rewritten to reflect this understanding.

Section 216.52 Well Information Report (WIF)

One commenter stated that because the producing interval is assigned by MMS, MMS should bear the responsibility of change and notification of industry.

MMS provides confirmation reports to the operator of the well when changes are made to the API well number and/or producing interval code.

One commenter stated that the regulation requires the submittal of a WIF on a one-time-only basis. He questioned subsequent changes to the API well number, well status, and producing interval code and who was required to file these forms.

Only the initial WIF is to be submitted by the operator prior to conversion. Subsequent additions of wells or changes to existing wells will be made by the appropriate BLM or MMS/OCS office.

One commenter thought that the following data items should be required on the WIF: purchaser name and number, purchaser assigned lease/property number, windfall profit tax tier, and Natural Gas Policy Act certification category.

The items that the commenter requested to be added to the WIF are not necessary for the accurate reporting of production. They are royalty/valuation related items and as such do not belong in the PAAS. MMS believes that including these items would be inappropriate.

Section 216.53 First Purchaser Report (FPR)

One commenter stated that a more reasonable time limit for record retention than six years should be applicable to first purchasers.

The six-year recordkeeping requirement is provided by section 103(b) of the Act. A lesser time limitation would be impractical and incompatible with statute of limitation requirements found in Federal and State law.

Two commenters questioned the usefulness of the report, considering the additional review work necessary by the audit program which this report serves.

The FPR the result of a Linowes Commission recommendation, is intended as a preliminary mechanism for data gathering for audit activities. MMS believes that the report will serve a useful purpose when deemed necessary.

One commenter requested that the wording in the proposed regulation be changed so that all first purchasers file the report monthly.

It is not the intent of the report to gather all purchaser data on a monthly basis but only when a specific request is necessary in relation to audit activities. The wording is not changed.

Two commenters stated that the FPR should be eliminated from the PAAS as the system should not require information beyond the OGOR.

Although the report need only be filed as directed by MMS, it is still important because it enables MMS to perform its data gathering function more efficiently.

Section 216.54 Oil and Gas Operations Report (OGOR)

Five commenters thought the words "and sold" should be added after the word "produced" in line 10 of the regulation because royalty is paid on quantities produced and sold.

The wording has been changed to "produced or sold." The wording is meant to include the intention of the regulations in 30 CFR 202.100, 202.150, 206.151, and 206.152.

Four commenters stated that the third sentence should be clarified to create a separate reporting requirement for each operator on Federal or Indian lease, unit, or communitization agreement.

The third sentence has been changed to "The report must be filed by every operator of the lease or agreement . . . ." The term "operator" is defined in § 216.6.

One commenter stated that all volumes reported on the OGOR should be metered, specifically flared/vented volumes.

The PAAS will allow reporting of estimated or calculated volumes when no actual measurement has occurred. The requirements of determining which volumes are to be measured is an operational function and beyond the scope of the PAAS.

One commenter stated the PAAS should be reevaluated to determine if quarterly or semiannual reporting is feasible.

The study currently underway within the Department will cover all options concerning future PAAS reporting.

Section 216.55 Gas Analysis Report (GAR)

Nine commenters thought that § 216.55 should be amended so that reporting frequency outlined in the regulations corresponds to that in the Reporter's Handbook.

The fifth sentence of this section has been changed to read "The form is due monthly or as specified by the gas sales contract terms but no less frequently than semiannual, and must be submitted on or before the 15th day of the second month following the end of the reporting period to which the information applies."

Seven comments received stated that the GAR should be eliminated from the PAAS reporting requirements.

The GAR provides necessary data which is used in association with the GPOR and OGOR. MMS can then make lease-level AFS/PAAS comparisons on processed gas and its related liquids.

Section 216.56 Gas Plant Operations Report (GPOR)

All twelve comments received on this specific section recommended that the GPOR reporting requirements be eliminated from the PAAS because the data being collected will result in numerous errors in the AFS/PAAS comparison. This, in turn, would cause the reporters to spend time answering inquiries from MMS. The commenters thought that MMS would be better served by audit procedures.

As previously stated, MMS requires additional time to assess the value of this report. Reporters will be notified if the reporting requirements change at a later date.

Section 216.57 Fractionation Plant Operations Report (FPOR)

The twelve comments received concerning the FPOR were identical to those in the previous section. The need for this report will be assessed simultaneously with the GPOR.

Section 216.58 Production Allocation Schedule Report (PASR)

Twelve commenters thought that the PASR should be eliminated from the PAAS reporting requirements. They believe that the PAAS reporting should end at the lease and no corroborative reports should be required.

The PASR provides MMS with a mechanism for verifying the allocation of sales from the onshore or offshore commingled sales point to the individual leases or agreements which produce to that point. The information is currently being provided by the sales point operator. The PASR organizes the data in a readily useful manner.

Two commenters stated that the requirements of who is required to file a PASR should be included in the regulations.

The section has been reworded to include the criteria of who must file a PASR.

One commenter stated that in line 14, the word "of" should be "or."

The requested change has been made.

One commenter wanted the regulations to require a certification as to the accuracy of all allocation meters and, upon initial submittal of a PASR, the reporters to include a flow chart detailing product flow lines, metering, and gathering points.

The information which these recommendations would require is unnecessary for the PAAS to accomplish its purpose. The proposed requirements are of an operational nature and will not be included in the PAAS.

Section 216.61 API Well Number Change Report. (ANCR)

One commenter stated that the form should be redesigned to include the operator's internal assigned well number in addition to the API well number.

The API well number provides a unique identifier and as such is a key to the PAAS. An operator's internally assigned well number would not necessarily be unique to all operators. The operator's internally assigned well number does provide a convenient mechanism for identifying each individual operator. The comments field of the form can be used for these data.

One commenter stated that, because MMS assigns the producing interval code, it was the responsibility of MMS to notify industry of subsequent changes.

The PAAS provides a confirmation report of each ANCR processed to the appropriate operator.

Section 216.202 Facility and Measurement Information Form (FMIF)

One commenter pointed out that the FMIF is not submitted on a one-time-only basis and that the statement is confusing.

MMS agrees with this comment and will clarify this section by eliminating "on a one time only basis."

Section 216.203 Solid Minerals Operation Report (SMOR)

One commenter requested that the SMOR be submitted only for those operations that are producing mines.

MMS agrees that if a mine is not producing, is not expected to produce in the next twelve months, and has no outstanding inventory, then the SMOR is not required. MMS will eliminate "or inactive mines" from this section.

V. Procedural Matters

Executive Order 12291

The Department of the Interior has considered all comments received on the proposed rule and has determined that this document is not a major rule and does not require a regulatory analysis under Executive Order 12291.

Although the final rule establishes certain assessments for improper reporting, there is no economic effect so long as there is compliance with the regulations.

The increased regulatory burden on industry due to the information collection requirements for establishing production quantities is estimated to be approximately $1.5 million. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

Some portion of the approximately $1.5 million cost burden to the public will fall on the small businesses that are among the potential respondents. Since the total cost to the public is relatively small, and because the MMS provides special training and assistance to small organizations, there will be no significant economic effect on small entities. Although the rule establishes certain penalty assessments for improper reporting, as long as there is compliance with the regulations, there is no cost. Consequently, it does not require a Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) analysis.

Paperwork Reduction Act of 1980

The information collection requirements contained in Subparts B and E of this proposed rule have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3504(h), and granted OMB Clearance Number 1010–0040 and 1010–0063, respectively. Information collection under provisions of § 216.30 will affect less than 10 respondents annually and does not require OMB approval.

National Environmental Policy Act of 1969

This action is categorically excluded (40 CFR 1508.4) from the requirements of the National Environmental Policy Act 42 U.S.C. 4321 *et seq.*, and has been so designated by the Department. (516 DM 2 appendix 1.6; and 516 DM 6, appendix 2.4 (B)(1)(k).)

List of Subjects in 30 CFR Part 216

Mineral production, Mineral royalties, Reporting and recordkeeping requirements, Oil and gas, Solid minerals.

Under the authority of the Secretary of the Interior contained in 30 U.S.C. 1751, 30 CFR is amended by the addition of a new Part 216.

Dated: January 17, 1986.

J. Steven Griles,

Assistant Secretary for Land and Minerals Management.

Title 30 of the Code of Federal Regulations is amended by adding Part 216 to read as follows:

SUBCHAPTER A—ROYALTY MANAGEMENT

PART 216—PRODUCTION ACCOUNTING

Subpart A—General Provisions

Sec.
216.1 Purpose.
216.2 Scope.
216.6 Definitions.
216.10 Information collection.
216.20 Applicability.
216.21 General obligations of the reporter.
216.25 Confidentiality.
216.30 Special forms and reports.
216.40 Assessments for incorrect or late reports and failure to report.

Subpart B—Oil and Gas, General

Sec.
216.50 [Reserved]
216.51 Facility and Measurement Information Form and Supplement.
216.52 Well Information Form.
216.53 First Purchaser Report.
216.54 Oil and Gas Operations Report.
216.55 Gas Analysis Report.
216.56 Gas Plant Operations Report.
216.57 Fractionation Plant Operations Report.
216.58 Production Allocation Schedule Report.
216.61 API Well Number Change Report.

Subpart C—Oil and Gas, Onshore [Reserved]

Subpart D—Oil, Gas, and Sulphur, Offshore [Reserved]

Subpart E—Solid Minerals, General

Sec.
216.200 [Reserved]
216.201 Mine Information Report.
216.202 Facility and Measurement Information Form.
216.203 Solid Minerals Operations Report.
216.204 Solid Minerals Facility Report.

Subpart F—Coal [Reserved]

Subpart G—Other Solid Minerals [Reserved]

Subpart H—Geothermal Resources [Reserved]

Subpart I—Indian Land [Reserved]

Authority: The Act of February 25, 1920 (30 U.S.C. 181 *et seq.*) as amended; the Act of May 21, 1930 (30 U.S.C. 301–306); the Minerals Leasing Act for Acquired Lands (30 U.S.C. 351–359), as amended; the Act of March 3, 1909 (25 U.S.C. 396), as amended; the National Environmental Policy Act of 1969 (42 U.S.C. 4321, *et seq.*) as amended; the Act of May 11, 1938 (25 U.S.C. 396a–396q), as amended; the Act of February 28, 1891 (25 U.S.C. 397), as amended; the Act of May 29, 1924 (25 U.S.C. 398); the Act of March 3, 1927 (25 U.S.C. 398a–398e); the Act of June 30, 1919 (25 U.S.C. 399), as amended; R.S. § 441 (43 U.S.C. 1457), see also Attorney Generals's Opinion of April 2, 1941 (40 Op. Atty. Gen. 41); the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471, *et seq.*), as amended; the Act of December 12, 1980 (Pub. L. 96–514, 94 Stat. 2964); the Combined Hydrocarbon Leasing Act of 1981 (Pub. L. 97–78, 95 Stat. 1070); the Outer Continental Shelf Lands Act (43 U.S.C. 1331, *et seq.*), as amended; Section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262); Secretarial Order No. 3071 of January 19, 1982, as amended; Secretarial Order 3087, as amended; The Indian Mineral Development Act of 1982 (25 U.S.C. 2101, *et seq.*); and the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701, *et seq.*).

Subpart A—General Provisions

§ 216.1 Purpose.

The purpose of this part is to ensure that the Federal Government receives proper information regarding energy and mineral resources removed from Federal and Indian leases and federally approved agreements, including the Outer Continental Shelf (OCS).

§ 216.2 Scope.

This part governs the reporting of oil, gas, and solid minerals operations information on Federal and Indian leases or federally approved agreements including the OCS. This part also governs the reporting of other operational information associated with production from Federal and Indian leases or federally approved agreements when such operations occur prior to the point of sale or royalty determination, whichever is applicable. Reporters are required to continue to submit existing production reports (3160–6 (formerly 9–329 and 9–329–1), 9–152, 9–373A, 9–128, 9–128a, 9–128b, 9–128c, 9–128d, 9–368, 9–1146, etc.) until conversion to PAAS. The appropriate MMS official will notify reporters being converted to PAAS of the proper schedules for start-up of reporting under PAAS and for discontinuing reporting using the existing production report forms.

§ 216.6 Definitions.

For purposes of this part:

(a) *"Agreement"* means a binding arrangement between two or more parties purporting to the act of agreeing or of coming to a mutual arrangement that is accepted by all parties to a transaction (e.g., communitizations, unitization, gas storage, or compensatory royalty agreements.).

(b) *"Alaska Native Corporation"* means a corporation created pursuant to the provisions of the Alaska Native Claims Settlement Act (43 U.S.C. 1601 *et seq.*).

(c) *"Approved mining plan"* as used in this part means an approved resource recovery and protection plan (43 CFR 3480.5) or approved mining plan (43 CFR 3572.1).

(d) *"Associate Director"* means the Associate Director for Royalty Management of the MMS.

(e) *"Conversion period"* means that period of time between the date an operator not subject to the rules of this part is notified that the rules are to be made applicable to that operator, and the effective date of applicability. The conversion period will not be less than one year unless the operator requests a shorter period.

(f) *"Facility"* means a structure(s) used to store or process Federal or Indian mineral production prior to or at the point of royalty determination.

(g) *"Federal lease"* means a lease concerning minerals owned by the United States and includes a lease where an Alaska Native Corporation receives all or part of the royalties accruing from that lease, and the MMS has not waived administration of that lease.

(h) *"First purchaser"* means any entity receiving the lease production in a first transfer for value transaction.

(i) *"Gas"* means any fluid, either combustible or noncombustible, which is extracted from a reservoir and which has neither independent shape nor volume, but tends to expand indefinitely; a substance that exists in a gaseous or rarefied state under standard temperature and pressure conditions.

(j) *"Indian lease"* means a lease concerning lands or interest in lands of an Indian Tribe or an Indian allottee, his heirs or devisees, held in trust by the United States or which is subject to Federal restriction against alienation, including mineral resources and mineral estates reserved to an Indian Tribe or an Indian allottee, his heirs or devisees thereto in the conveyance of a surface or non-mineral estate, except that such term does not include any lands subject to the provisions of section 3 of the Act of June 28, 1906 (34 Stat. 539).

(k) *"Lease"* means any contract, profit-share arrangement, joint venture, permit, or other agreement issued or approved by the United States under a mineral leasing law that authorizes exploration for, extraction of, or removal of oil, gas, or solid minerals—or the land area covered by that authorization, whichever is covered by the context.

(l) *"Lessee"* means any person to whom the United States, an Indian Tribe, or an Indian allottee, issues a lease, or any person who has been assigned an obligation to make royalty or other payments required by the lease.

(m) *"MMS/RMP"* means the Royalty Management Program of the Minerals Management Service.

(n) *"Measurement device"* means a mechanical or electrical device that is used to measure production of oil, gas, or solid minerals for sales, transfers, and/or royalty determination.

(o) *"Mine"* means an underground or surface excavation or series of excavations and the surface or underground support facilities that contribute directly or indirectly to mining, production, preparation, and handling of coal or other solid minerals.

(p) *"Mineral Leasing Law"* means any Federal law administered by the Secretary authorizing the disposition under lease of oil, gas, or solid minerals.

(q) *"Oil"* means any fluid hydrocarbon substance other than gas which is extracted in a fluid state from a reservoir and which exists in a fluid state under the existing temperature and pressure conditions of the reservoir. Oil includes liquefiable hydrocarbon substances such as drip gasoline or other natural condensates recovered in a liquid state from gas.

(r) *"Operator"* means any person, including a lessee who has control of, or who manages operations on, any oil and gas or solid minerals lease site on Federal (including the OCS) or Indian lands. "Operator" also means any entity engaged in the business of developing, drilling for, producing, transporting, purchasing, selling, or processing oil, gas or solid minerals and/or which has the responsibility of reporting production from a lease or a portion thereof.

(s) *"Outer Continental Shelf (OCS)"* has the same meaning as provided in section 2 of the Outer Continental Shelf Lands Act, 43 U.S.C. 1331.

(t) *"Person"* means any individual, firm, corporation, association, partnership, consortium or joint venture.

(u) *"Production Accounting and Auditing System (PAAS)"* means an integrated system of manual and automated processes for minerals production reporting, accounting, and auditing. Based upon production reports submitted by reporters, the PAAS will track oil, gas, and solid minerals produced from or allocated to Federal and Indian leases, including the OCS, from the source of production to the point of disposition with emphasis on the point of royalty determination, or point of sale, whichever is applicable.

(v) *"Raw make"* means natural gas liquids (NGL's) that are extracted from the wet gas stream at a gas plant (e.g., ethane through natural gasoline) which sometimes is transferred to a fractionation plant for further processing.

(w) *"Reporter"* means any reporting entity required to submit a PAAS report or form to the MMS.

(x) *"Secretary"* means the Secretary of the Interior or his/her designee.

(y) *"Solid minerals"* means those minerals including but not limited to coal, potash, sodium, phosphate, sulfur, lead, zinc, copper, silica sands, sand and gravel, and other minerals under mineral leasing laws originating from or allocated to Federal or Indian leases, excluding oil or gas, oil shale, and geothermal resources.

§ 216.10 Information collection.

(a) The information collection requirements contained in Subpart B require the filing of forms which have been approved by the Office of Management and Budget (OMB) under 44 U.S.C. 3507, and assigned clearance number 1010–0040. The information is being collected for Federal and Indian royalty accounting purposes. The information collection requirements contained in Subpart E also require the filing of forms which have been approved under 44 U.S.C. 3507 and assigned clearance number 1010–0063.

(b) The information collected will be used to permit accounting and auditing of production information submitted by the reporter for mineral production from Federal and Indian leases and federally approved agreements. Information reporting forms are available from the MMS. Requests shall be addressed to: Minerals Management Service, Royalty Management Program, Box 17110, Denver, Colorado 80217.

§ 216.20 Applicability.

(a) The requirements of this part shall apply to all operators already reporting to the PAAS on April 7, 1986.

(b) The requirements of this part shall not apply to any operator not included in subsection (a) until MMS notifies the operator in writing, certified mail, return receipt requested, at least one year in advance of the date the rules are to be applicable to that operator, except such operators shall be required during the conversion period to file the reports required by § 216.51, § 216.52a, § 216.201, or § 216.202 as applicable.

(c) Notwithstanding subsection (b), any operator may request and MMS may approve a conversion period of less than one year.

(d) Notwithstanding any of the provisions of this section, operators on all offshore leases and all solid mineral leases issued on or after April 7, 1986, shall be subject to the requirements of this part without any conversion period.

§ 216.21 General obligations of the reporter.

The reporter shall submit accurately, completely and timely, pursuant to the requirements of this part, all information

forms and other information required by MMS. Specific guidance on the use of the required forms is contained in the Production Accounting and Auditing System Reporters Handbook. Copies of the handbook are available from the MMS.

§ 216.25 Confidentiality.

(a) Information obtained by MMS pursuant to the rules of this part shall be open for public inspection and copying during regular office hours upon a written request, pursuant to rules at 43 CFR Part 2, except that:

(1) Notwithstanding any other provision of this part, information obtained from a reporter under this part relating to a minerals agreement approved pursuant to the Indian Mineral Development Act of 1982, 25 U.S.C. 2101 *et seq.*, the Tribal Leasing Act of 1938 (25 U.S.C. 396a *et seq.*), or the Allotted Indian Mineral Development Act of 1909 (25 U.S.C. 396), shall not be released without the written consent of the Indian Tribe(s) or individual Indian(s) who are parties to the mineral agreement.

(2) Information obtained from a reporter pursuant to this part that constitutes a trade secret and/or commercial or financial information which is privileged or confidential, or other information that may be withheld under the Freedom of Information Act (5 U.S.C. 552(b)), such as geologic and geophysical data concerning wells, shall be available for public inspection in accordance with 43 CFR Part 2. When such information is related to Indian lands, consent to release the information must also be obtained from the cognizant Tribe or allottee.

(b) If any geologic and/or geophysical data is submitted under this part, these shall be made available to the public only in accordance with the provisions of 30 CFR 250.3, 250.4 and 252.7, if these relate to an offshore lease, and in accordance with 43 CFR 3162.8 if these relate to an onshore Federal or Indian lease.

§ 216.30 Special forms and reports.

When special forms or reports other than those referred to in the regulations in this part are necessary, instructions for the filing of such forms or reports will be provided by the Associate Director. Such requests will be made in conformity with the requirements of the Paperwork Reduction Act of 1980, and are expected to involve less than 10 respondents annually.

§ 216.40 Assessments for incorrect or late reports and failure to report.

(a) An assessment of $10.00 per day may be charged for each report not received by MMS by the designated due date.

(b) An assessment of $10.00 per day may be charged for each report received by the designated due date but which is incorrectly completed.

(c) For purposes of oil and gas reporting under the PAAS, a report is defined as each line of production information required on the Oil and Gas Operations Report (Form MMS–4054), Gas Analysis Report (Form MMS–4055), Gas Plant Operations Report (Form MMS–4056), Fractionation Plant Operations Report (Form MMS–4057), and Production Allocation Schedule Report (Form MMS–4058).

(d) For purposes of solid minerals reporting under PAAS, a report is defined as each line of production information required on the Solid Minerals Operation Report (Form MMS–4059) and Solid Minerals Facility Report (Form MMS–4060).

(e) The MMS will not make assessments for reporting problems which are beyond the control of the reporter (e.g., reports received late because of bad weather). The reporter shall have the burden of proving that a reporting problem was unavoidable.

(f) An assessment under this section shall not be shared with a State, Indian tribe, Indian allottee, or Alaska Native Corporation.

Subpart B—Oil and Gas, General

§ 216.50 [Reserved]

§ 216.51 Facility and Measurement Information Form and Supplement.

(a) The Facility and Measurement Information Form (Form MMS–4051) must be filed for each facility or measurement device which handles production from any Federal or Indian lease, or federally approved agreement, through the point of first sale or the point of royalty computation, whichever is later. The completed form must be filed by the operator of the facility or measurement device initially at the request of MMS during the conversion of facility and measurement device operators to the PAAS. After conversion, Form MMS–4051 must be filed with MMS/RMP no later than 30 days after establishment of a new facility or measurement device, or a change to an existing facility or measurement device which is not approved by the MMS/OCS.

(b) The Facility and Measurement Information Form-Supplement (Form MMS–4051 Supplement) must be filed for each facility or measurement device that handles production from any Federal or Indian lease, or federally approved agreement, through the point of first sale or the point of royalty computation, whichever is later, when such facility or measurement device is operated by any party other than the operator(s) of the lease(s) or approved agreement(s) served by said facility or measurement device. The completed form must be filed by each operator of the lease(s) or federally approved agreement(s) served by said facility or measurement device if that operator is not the same person that operates said facility or measurement device. Form MMS–4051 Supplement must be filed at the request of the MMS initially during the conversion of lease and agreement operators to PAAS.

§ 216.52 Well Information Form.

The Well Information Form (Form MMS–4052) must be filed at the request of MMS for each Federal or Indian lease, or federally approved agreement, on which there exists at least one well that is not permanently plugged and abandoned. The completed form must be filed by the operator of the lease or agreement initially during the conversion of lease and agreement operators to the PAAS.

§ 216.53 First Purchaser Report.

The First Purchaser Report (Form MMS–4053) must be filed by first purchasers only upon the specific request of MMS.

§ 216.54 Oil and Gas Operations Report.

The Oil and Gas Operations Report (Form MMS–4054) must be filed by every operator of the lease or agreement for each Federal or Indian lease, or federally approved agreement, on which there exists at least one well that is not permanently plugged and abandoned. Completed Form MMS–4054 must be filed for each calendar month, beginning with the month in which drilling operations are initiated, and must be filed on or before the 15th day of the second month following the month being reported until the lease or agreement is terminated or the last well is permanently plugged or abandoned or until omission of the report is authorized by the MMS.

§ 216.55 Gas Analysis Report.

The Gas Analysis Report (Form MMS–4055) must be filed for each Federal or Indian lease, or federally approved agreement from which gas is transferred for processing prior to the point of royalty computation. The completed form must be filed by the

operator of the lease or approved agreement. The form is due monthly or as specified by the gas sales contract terms but no less than semiannually, and must be submitted on or before the 15th day of the second month following the end of the reporting period to which the information applies.

§ 216.56 Gas Plant Operations Report.

The Gas Plant Operations Report (Form MMS–4056) must be filed for each gas plant that processes gas that originates from a Federal or Indian lease, or federally approved agreement, prior to the point of royalty computation, by the operator of the gas plant. Completed Form MMS–4056 must be filed for each calendar month, beginning with the month in which processing of gas originating from a Federal or Indian lease or federally approved agreement is initiated, and must be filed on or before the 15th day of the second month following the month being reported.

§ 216.57 Fractionation Plant Operations Report.

The Fractionation Plant Operations Report (Form MMS–4057) must be filed for each fractionation plant that fractionates raw make attributable to a Federal or Indian lease, or federally approved agreement, prior to the point of royalty computation for such lease or agreement. The completed form must be filed by the operator of the fractionation plant. Form MMS–4057 must be filed for each calendar month, beginning with the month in which fractionation of raw make originating from a Federal or Indian lease, or federally approved agreement is initiated, and must be filed on or before the 15th day of the second month following the month being reported.

§ 216.58 Production Allocation Schedule Report.

The Production Allocation Schedule Report (Form MMS–4058) shall be filed for each facility or measurement device where the production from a Federal or Indian lease or agreement is commingled with the production from one or more other Federal, Indian or non-Federal leases or agreements prior to measurement for royalty computation purposes. A report is not required whenever the leases/agreements involved are all Federal or all Indian; all have the same fixed royalty rate; all are operated by the same person; and the facility/measurement device is operated by the same person as the leases/agreements. The completed form must be filed by the operator of such facility or measurement device. Form MMS–4058 must be filed for each calendar month, beginning with the month in which handling or production covered by this section is initiated, and must be filed on or before the 15th day of the second month following the month being reported.

§ 216.61 API Well Number Change Report.

The API Well Number Change Report (Form MMS–4061) must be filed whenever there is a change to an existing API well number and/or the MMS assigned producing interval code within the PAAS, on which an Oil and Gas Operations Report (Form MMS–4054) have been filed. The completed form must be filed by the operator of the Federal or Indian lease, or federally approved agreement, with which the well is associated. Form MMS–4061 must be filed at least 10 days prior to the submission of an Oil and Gas Operations Report containing the new API well number and/or the MMS assigned producing interval code.

Subpart C—Oil and Gas, Onshore [Reserved]

Subpart D—Oil, Gas, and Sulfur, Offshore [Reserved]

Subpart E—Solid Minerals, General

§ 216.200 [Reserved]

§ 216.201 Mine Information Report.

The Mine Information Form (Form MMS–4050) must be filed for each mine that includes Federal or Indian leases in its approved mining plan. The completed form must be filed by the operator of the mine/lease(s). Form MMS–4050 must be filed at the request of the MMS initially during the conversion of the mine/lease(s) to the PAAS.

§ 216.202 Facility and Measurement Information Form.

The Facility and Measurement Information Form (Form MMS–4051) must be filed for each facility or measurement device which handles solid mineral production from any Federal or Indian lease, or federally approved agreement, through the point of first sale or the point of royalty computation, whichever is applicable. The completed form must be filed by the operator of the facility or measurement device. Form MMS–4051 must be filed initially at the request of the MMS during the conversion of facility and measurement device operators to the PAAS. Subsequent to conversion, Form MMS–4051 must be filed with MMS/RMP no later than 30 days after establishment of a new facility or measurement device, or a change to any existing facility or measurement device that handles production attributable to any Federal or Indian lease, or federally approved agreement, through the point of first sale or royalty computation, whichever is applicable.

§ 216.203 Solid Minerals Operations Report.

The Solid Minerals Operation Report (Form MMS–4059) must be submitted by all Federal and Indian lease operators of producing mines that are part of an approved mine plan. Form MMS–4059 must be filed for the same period established for payment for royalties in the lease terms, unless a different reporting frequency is established by an MMS authorized official, and on or before the 15th day of the second month following the period being reported until all the leases within a mine are terminated or until omission of the report is authorized by the MMS.

§ 216.204 Solid Minerals Facility Report.

The Solid Minerals Facility Report (Form MMS–4060) must be filed by operators of secondary processing facilities that handle production attributable to Federal or Indian leases where royalty is determined after processing. The report period is monthly, unless a longer period is specified in the lease document, or otherwise approved by the MMS. The Form MMS–4060 must be filed on or before the 15th day of the second month following the period being reported.

Subpart F—Coal [Reserved]

Subpart G—Other Minerals [Reserved]

Subpart H—Geothermal Resources [Reserved]

Subpart I—Indian Land [Reserved]

[FR Doc. 86–4998 Filed 3–6–86; 8:45 am]
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Federal Register

Friday
March 7, 1986

Part VI

Department of Health and Human Services

Food and Drug Administration

21 CFR Part 201

Labeling for Oral and Rectal Over-the-Counter Aspirin and Aspirin-Containing Drug Products; Final Rule

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 201

[Docket No. 85N-0553]

Labeling for Oral and Rectal Over-the-Counter Aspirin and Aspirin-Containing Drug Products

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending its regulations to require that the labeling of oral and rectal over-the-counter (OTC) aspirin and aspirin-containing drug products for human use bear a warning that such products should not be used to treat chicken pox or flu symptoms in children and teenagers before consulting a doctor about Reye syndrome, a rare but serious illness. FDA is taking this action in order to bring uniformity and consistency to the marketplace and to aid in increasing the public awareness about this disease.

DATES: These final regulations are effective June 5, 1986.

FOR FURTHER INFORMATION CONTACT: Christopher Smith, Office of the Commissioner (HF-1), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-5133.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of December 17, 1985 (50 FR 51401), FDA proposed to require that the labeling of oral OTC aspirin and aspirin-containing drug products for human use bear a warning that such products should not be used to treat chicken pox or flu symptoms in children and teenagers before consulting a doctor about Reye syndrome, a rare but serious illness. FDA proposed this rule in order to bring uniformity and consistency to the marketplace and to aid in increasing the public awareness about this disease.

In the proposal, FDA described: (a) Reye syndrome and its symptoms; (b) the early scientific studies that were conducted to look at the possible association between the use of aspirin and the onset of Reye syndrome; (c) the Public Health Service (PHS) study now being conducted under the direction of the PHS Reye Syndrome Task Force; and (d) the educational activities that have been carried out by FDA and aspirin industry about the use of aspirin and Reye syndrome. FDA acknowledged in the proposal and the successful voluntary public education and labeling efforts made by the aspirin industry, but noted that these voluntary efforts led to considerable diversity in the specific message being conveyed to consumers, particularly through product labeling. A complete discussion of this diversity along with examples of product labeling and the concerns expressed by several organizations are contained in the proposed rule.

FDA also noted that, under the voluntary program, it was unable to ascertain with certainty whether all aspirin-containing products that should be labeled with the warning statement have, in fact, been labeled.

II. Highlights of the Final Rule

As described further below, all the comments received on the proposal expressed support for the new regulation. Thus, to increase consumer awareness, to avoid public confusion, and to achieve uniformity in the marketplace, FDA is issuing a final regulation which closely parallels the proposal.

As in the proposal, the final rule requires the following labeling statement:

"WARNING: Children and teenagers should not use this medicine for chicken pox or flu symptoms before a doctor is consulted about Reye syndrome, a rare but serious illness."

Also like the proposal, FDA is requiring that this warning precede any additional warnings that may appear on the product labeling in order to assure the prominence of the message.

In addition, in response to comments received on the proposal (described below), FDA is adding rectal OTC aspirin and aspirin-containing products within the scope of this regulatory action, and is making it clear that this final rule preempts State and local labeling requirements that are not identical to it with respect to oral and rectal OTC aspirin and aspirin-containing drug products for human use. The final rule and this preamble also contain some minor clarifications to statements in the proposal or to comments received.

III. Comments

FDA received 17 comments on the proposed rule: 4 from industry, 6 from trade associations, 3 from health professional associations, 2 from State agencies, 1 from a consumer group, and one from FDA staff. All comments were positive and expressed support for the agency's action. Some suggested changes in the proposal or expressed concerns with specific portions of the proposal.

A. Individual Manufacturer's Comments

FDA received comments from four pharmaceutical firms. Two expressed concern that since they had participated in the voluntary program and were labeling their products with a warning statement, they should be allowed to use up existing supplies of labels now in inventory, or that, at a minimum, FDA should extend the effective date in order to allow for most such inventories to be used. Two other firms suggested that their present labeling contains warning statements that, although not exactly as that proposed by FDA, are close enough in their language to be acceptable.

FDA disagrees that stocks of labels that are in inventory or labeling that is not exactly like that in the final rule, but close to that in the final rule, should be allowed to be used as a matter of course. While FDA recognizes that some firms may be inconvenienced after having already changed their labels in order to participate in the voluntary program, the purpose of this rule is specifically to bring uniformity and consistency to the marketplace. However, FDA points out that the new regulatory requirement is directed to the initial introduction of the product into interstate commerce. Thus, products in retail packaging that are labeled with an earlier Reye syndrome warning, and that have been initially introduced into interstate commerce prior to the effective date of this rule, will be permitted to be sold. In contrast, products produced in retail packaging, and initially delivered for introduction into interstate commerce on or after the effective date of this rule, will be required to be in compliance with the new requirements.

FDA also is not extending the rule's effective date. This is to help ensure that aspirin and aspirin-containing products that are on the store shelves by the next flu season will be labeled according to this final rule. FDA recognizes that there may be a few small manufacturers for whom, for various financial or other reasons, it is impossible to comply with this final rule by the effective date. In these unusual circumstances, FDA will consider requests for limited extensions. Such requests should be sent to Office of Compliance, Center for Drugs and Biologics, HFN-300, Food and Drug Administration, 5600 Fishers Lane.

Rockville, Maryland 20857, and should document both the need for an extension and the duration of time requested.

B. Comments From Trade Associations

FDA received comments from six trade associations. While none of the industry trade associations that commented suggested a delay in the effective date for the rule, or a time period during which labels printed with the voluntary warning should still be allowed, several of the comments did request that FDA allow for the "sell-through" of current stocks already in the distribution chain. FDA agrees with these comments and, as discussed earlier, will allow the "sell-through" of products already in interstate commerce.

Comments also were received expressing concern that the proposal was unclear about the exact type of product material on which the warning statement must appear. In response to the comments, the final rule has been clarified to state that the warning statement must appear in several places. First, the warning is required to appear on the label of the immediate container. Second, in cases where the immediate container is not the retail package (e.g., where a bottle of tablets is packaged in a box), the retail package must also bear the warning statement. Finally, the warning statement must appear on any labeling that contains other warnings, and, in such cases, the Reye warning is required to be the first warning under the heading "Warnings." However, items such as "shelf talkers," store displays or money-saving coupons would not be required to bear the warning statement.

Two trade association comments suggested that FDA preempt State requirements for label warnings regarding Reye syndrome. While FDA is unaware of any such requirements at this time, FDA agrees with the comments. FDA is authorized to assure the safety of drugs marketed in interstate commerce in this country. The manufacturing and distribution system for these products is national in scope and the measures adopted by FDA to regulate this national system should be adequate to safeguard the interests of the entire population. While State and local requirements for products may on occasion be appropriate and necessary, such measures should not interfere with FDA's accomplishing those purposes that are within its Congressionally mandated area of responsibility. State and local requirements for the labeling of oral and rectal OTC aspirin-containing drug products that differ from those established by this final rule would interfere with the accomplishment of FDA's objective to bring consistency and uniformity to the marketplace with respect to the labeling of these products regarding Reye syndrome. Thus, FDA intends that the regulations issued in this document preempt State and local packaging requirements that are not identical to it with respect to oral and rectal OTC aspirin-containing drug products for human use.

C. Comments From Health Professional Associations

FDA received comments from three health professional associations. Two comments urged that the warning include more explicit language about aspirin and Reye syndrome such as "Studies show that aspirin may increase the risk of developing Reye syndrome." While FDA has stated that the available data do not establish a definitive cause-and-effect relationship between aspirin-containing products and the disease, the agency has concluded that the studies that have been done to date suggest a possible association between aspirin use and Reye syndrome. Thus, FDA felt it was appropriate to carry out a public awareness campaign and to encourage voluntary industry public education efforts. However, in the proposal FDA specifically states that the impetus for the rule is to bring consistency and uniformity to the marketplace with respect to the warning statement. For these reasons, FDA believes that the warning statement as proposed is sufficient at this time and the agency disagrees with the comment. The final rule is, however, an interim measure in that it will expire in 2 years. FDA will consider the need for a change in the warning statement based upon the available data at that time.

One comment suggested that the final rule be extended to cover aspirin-containing prescription drug products as well as those available OTC. FDA does not agree at this time that this final rule should be applied to prescription drugs. The warning statement required by the rule is aimed at consumers buying and using aspirin-containing products without the advice of a physician. Thus, the statement required by the final rule suggests that persons consult a doctor before using the drug in certain circumstances. Prescription drugs are dispensed only on the order of a physician. FDA informs physicians of such matters as the possible association between aspirin and Reye syndrome in many ways including information bulletins and requirements under the prescription drug regulations. Therefore, FDA believes it is taking the appropriate action with regard to Reye syndrome and OTC drugs at this time. However, in 2 years, upon expiration of this final rule, if the agency seeks to continue the requirement based upon new information available then, the agency may reconsider the need for a warning in the professional labeling for prescription drug products.

Finally, one health professional group suggested that the required warning statement include pharmacists as a group that might be consulted prior to the use of the medication. FDA disagrees with this comment because the warning statement suggests that consultation be obtained about a disease, Reye syndrome, rather than information about a pharmaceutical product.

D. State Comments

FDA received comments from two State organizations. One comment simply expressed support for the proposal. The other, while advocating the labeling requirement, suggested that the warning also require a listing of the symptoms of Reye syndrome. FDA agrees that the public should be knowledgeable of the symptoms of Reye syndrome, and both FDA and the aspirin industry have included that information as part of the public education campaign described in the proposal. However, the purpose of the label warning is preventive—i.e., that aspirin should not be used for certain purposes without first consulting a physician. Thus, including the symptoms of Reye syndrome on the product label would not further that purpose.

E. Consumer Group Comments

FDA received comment from one consumer organization. While supportive of the agency's efforts to require a warning, the group did offer several suggested changes. The comment supported the proposal and called for the effective date to be May 30, 1986, even if the time period between publication and the effective date needed to be shortened from 90 days. FDA disagrees. The effective date of this regulation is June 5, 1986, which is not appreciably different from the proposed effective date of May 30, 1986.

The comment also suggested that the warning statement be required to be boxed so that it will be highlighted to the consumer. FDA does not believe a boxed warning is necessary. The requirement that the warning be the first warning under the heading "Warning" appropriately highlights the information.

Another part of the comment suggested that the warning include the statement that Reye syndrome is "often fatal." While FDA agrees that Reye syndrome can be fatal, in the majority of cases it is not. FDA therefore believes the warning, as proposed, is appropriate, and that the consumer's physician can discuss such specifics as the disease's fatality rate as the need arises.

The comment also suggested that products subject to this rule that are indicated for use by both children and adults be required to have in the "Indications" section a clarification that the product should not be used by persons under 21 for the treatment of flu or chicken pox or, at a minimum, that the "Indications" section should contain a cross-reference to the Reye syndrome warning elsewhere in the labeling. FDA does not agree that an additional statement should be required in the "Indications" section or that a cross-reference is needed. FDA believes that the placement of the required warning statement as the first warning under the "Warning" section is an appropriate method of conveying the information to teenagers who may use adult aspirin products and to those who may consider the use of these products to treat children with flu or chicken pox.

Finally, the comment urged that FDA extend the labeling requirements to prescription drugs. FDA disagrees with this suggestion for reasons already discussed.

F. FDA Staff

One comment was filed by employees of the agency's Center for Drugs and Biologics who suggested that the rule be extended to include aspirin and aspirin-containing OTC rectal suppository drugs. The comment pointed out that such products are often used in patients unable to take oral medication, especially in infants, or when oral medication is not retained. The comment also noted that comparison of absorption of rectal versus oral doses of aspirin show that the rectal absorption can be equivalent to that obtained by the oral dose. FDA agrees with the comment and is including rectal OTC aspirin and aspirin-containing drug products in the final rule.

IV. Agency Action

FDA has evaluated the comments as well as information already in the agency's files and concludes that, for the reasons stated above, the proposed labeling for oral and rectal OTC aspirin and aspirin-containing drug products is necessary and appropriate and that the regulations should be amended as set forth below.

The agency laid out its legal authority and assessed the economic and environmental impact of this rule in the proposal of December 17, 1985 (50 FR 51401). This assessment concluded that the proposed rule was not a major rule as defined by Executive Order 12291. No new information or comments were received that would alter this determination or the agency's previous determination that there is no significant impact on the human environment and that an environmental impact statement is not required.

List of Subjects in 21 CFR Part 201

Drugs, Labeling.

Therefore, under the Federal Food, Drug, and Cosmetic Act, Part 201 is amended as follows:

PART 201—LABELING

1. The authority citation for 21 CFR Part 201 is revised to read as follows:

Authority: Secs. 201, 502, 505, 701, 52 Stat. 1040–1042 as amended, 1050–1056 as amended (21 U.S.C. 321, 352, 355, 371); 21 CFR 5.10 and 5.11.

2. In § 201.314 by adding new paragraph (h) to read as follows:

§ 201.314 Labeling of preparations containing salicylates.

* * * * *

(h)(1) The labeling of orally or rectally administered over-the-counter aspirin and aspirin-containing drug products subject to this paragraph is required to prominently bear a warning. The warning shall be as follows: "WARNING: Children and teenagers should not use this medicine for chicken pox or flu symptoms before a doctor is consulted about Reye syndrome, a rare but serious illness."

(2) This warning statement shall appear on the immediate container labeling. In cases where the immediate container is not the retail package, the retail package also must bear the warning statement. In addition, the warning statement shall appear on any labeling that contains warnings and, in such cases, the warning statement shall be the first warning statement under the heading "Warnings."

(3) Over-the-counter drug products subject to this paragraph and labeled solely for use by children (pediatric products) shall not recommend the product for use in treating flu or chicken pox.

(4) Any product subject to this paragraph that is not labeled as required by this paragraph and that is initially introduced or initially delivered for introduction into interstate commerce after June 5, 1986, is misbranded under sections 201(n) and 502 (a) and (f) of the Federal Food, Drug, and Cosmetic Act.

(5) The requirements of this paragraph shall expire June 6, 1988 unless extended by the Food and Drug Administration by publication for notice and comment in the **Federal Register.**

Dated: February 27, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

Otis R. Bowen, M.D.,

Secretary of Health and Human Services.

[FR Doc. 86–5027 Filed 3–6–86; 8:45 am]

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H.J. Res. 499/Pub. L. 99-254

Designating the week beginning March 2, 1986, as "Women's History Week". (Mar. 4, 1986; 100 Stat. 38; 1 page) Price: $1.00