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Federal Register

Monday
April 28, 1986

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

Selected Subjects

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Selected Subjects

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

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How To Cite This Publication: Use the volume number and the page number. Example: 51 FR 12345.

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

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

WHO: The Office of the Federal Register.

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

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

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

WASHINGTON, DC

WHEN: May 15; at 9 am.

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

RESERVATIONS: Laurence Davey, 202-523-3517

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Presidential Documents

Title 3—

The President

Proclamation 5468 of April 23, 1986

Older Americans Month, 1986

By the President of the United States of America

A Proclamation

Have your health and have everything. That saying has special meaning for the elderly. Good health and fitness allow all of us, no matter what our age, the freedom and independence to choose how and where we live and to stay involved with our families and friends. Health and fitness enable us to take an active part in community life and to pursue our goals, whether they involve a career, hobbies, volunteer activities, travel, creative pursuits, or home life.

Good health is good common sense, but it is not enough to know this, we have to act accordingly. How we live can make all the difference. Proper diet, regular exercise, moderation in drinking, and avoidance of drugs and tobacco become even more important as we grow older. And life spans can be made longer and more pleasant by regular medical check-ups, sufficient rest, and continuing involvement in satisfying personal relationships and wholesome pursuits that keep the mind active.

Besides what the individual can do for himself, some older Americans still need the help of others to remain independent and in their own homes. Some need assistance with personal and housekeeping activities; others need attention, love, and encouragement. Families, friends, community groups, and the whole range of private and government providers of special services can do so much to help those older people who truly need assistance.

When we adopt good health habits ourselves, encourage others to do the same, and dedicate ourselves to helping those in need, we are truly fulfilling the tradition of good neighborliness.

The Congress, by Senate Joint Resolution 315, has expressed its appreciation and respect for the achievements of older Americans and its desire that these Americans continue to play an active role in the life of the Nation and has requested the President to issue a proclamation designating May 1986 as "Older Americans Month."

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the month of May 1986 as Older Americans Month. I ask public officials at all levels, community agencies, educators, the communications media, and the American people to take this opportunity to honor older Americans and to encourage them to do everything they can to make health and fitness an integral part of their lives, so that they can truly enjoy the golden warmth of their sunset years.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-third day of April, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 86-9494
Filed 4-24-86; 11:14 am]
Billing code 3195-01-M

Presidential Documents

Proclamation 5469 of April 24, 1986

National Reading Is Fun Week, 1986

By the President of the United States of America

A Proclamation

The pleasure that comes from reading is usually the magnet that draws people to practice and improve their reading skills. And the wide distribution of these skills not only enriches those who possess them but is a pillar of strength for a self-governing Nation. Yet many of America's 66 million people under the age of 18 need encouragement and direction to improve their reading skills to the point where they can become functionally literate and properly informed adults. Illiteracy and limited literacy cause much pain, frustration, and humiliation. And because their victims cannot reach their full productive potential, the economy is billions of dollars the poorer.

Traditionally, Americans have recognized problems in society and worked at applying practical solutions. Over the past two decades, dedicated volunteer efforts have enabled millions of children to discover the joy of reading. Through a variety of imaginative programs, thousands of children have been given the motivation and the practical help they need to unlock the treasure house of the printed page. Doors have been opened to richer lives. Currently, more than 100,000 volunteers are giving of their time and talents to open these doors of opportunity to young people who long to experience the joy of reading. But there is a need for still more volunteers who wish to help others and experience the deep satisfaction of knowing they have transformed the lives of others and set them on the path to discovery, understanding, and delight. Yes, for those who can read, reading is fun.

The Congress, by Senate Joint Resolution 286, has designated April 20 through April 26, 1986, as "National Reading is Fun Week" and has authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim April 20 through April 26, 1986, as National Reading is Fun Week. I invite the Governors of every State, local officials, and all Americans to observe this week by supporting programs that help young people to acquire the skill of reading that leads to the joy of reading.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-fourth day of April, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and tenth.

Ronald Reagan

[FR Doc. 86-9592
Filed 4-25-86; 10:30 am]
Billing code 3195-01-M

Rules and Regulations

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Monday, April 28, 1986

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 630

Absence and Leave; Recredit for Dependents of Federal Civilian or Uniformed Service Personnel

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: The Office of Personnel Management (OPM) is amending its sick leave regulations to extend the 3-year limitation on recredit of sick leave for dependents of Federal civilian or uniformed service personnel who leave Federal employment to accompany their sponsors on Federal overseas assignments. The purpose of this change is to help these employees avoid the forfeiture of substantial amounts of sick leave when they return to Federal employment.

EFFECTIVE DATE: May 28, 1986.

FOR FURTHER INFORMATION CONTACT: James Matteson, (202) 632–4634.

SUPPLEMENTARY INFORMATION: On November 14, 1985, OPM published proposed regulations at 50 FR 47060 to extend the 3-year limitation on recredit of sick leave (imposed by 5 CFR 630.502(b)(1)) under certain conditions.

During the 60-day public comment period, we received comments from one individual, three labor organizations, and one agency. The individual and two of the labor organizations supported the proposed regulations without change. One labor organization suggested that the proposed regulations be applied to all Federal civilian employees, rather than only to those who accompany their sponsors on overseas assignments. The proposed regulations addressed a specific problem encountered by dependents of Federal civilian and uniformed service personnel. We know of no such problem being encountered by employees in the United States. Therefore, we have not adopted the suggestion.

The agency stated that the proposed regulations were unclear as to whether the 3-year sick leave recredit period could be extended in situations that involve an intervening time period between the date the employee separates from the Federal service and the date he or she accompanies the sponsor on the overseas assignment. We believe that an intervening time period between the date the employee separates and the date he or she accompanies the sponsor on the overseas assignment is immaterial so long as the employee's separation from the service is for the purpose of accompanying the sponsor on the overseas assignment. Therefore the final regulations require that the employee's separation must be for the purpose of accompanying a civilian or military sponsor on an overseas assignment.

The agency also stated that the proposed regulations were unclear as to whether the 3-year sick leave recredit period could be extended to cover the situation in which an individual returns from overseas before the sponsor's assignment ends, but after the 3-year recredit period has expired. The final regulations provide that the additional 2-year period begins on the date of the employee's return from an overseas area to which the sponsor was assigned.

The agency also questioned our rationale for extending the sick leave recredit period for 2 years, rather than for the actual amount of time spent overseas. The proposed regulations were intended to mirror 5 CFR 315.608(b), which provides that a former employee-dependent has 2 years after his or her return from overseas in which to be reappointed noncompetitively. We believe this same 2-year period should be the basis for extending the sick leave recredit period for these employees.

The final regulations also clarify the definitions of key terms by including a specific reference to the definitions in 5 CFR 315.608(b).

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because the regulations will affect only Federal employees and agencies.

List of Subjects in 5 CFR Part 630

Government employees.

Office of Personnel Management.

Constance Horner,
Director.

Accordingly, 5 CFR Part 630 is amended as follows:

PART 630—ABSENCE AND LEAVE

1. The authority citation for Part 630 is revised as set forth below, and the authority citations following all the sections in Part 630 are removed:

Authority: 5 U.S.C. 6311; Section 630.303 also issued under 5 U.S.C. 6133(a); Section 630.501 also issued under sec. 1(2) of E.O. 11228.

2. In § 630.502, paragraphs (c), (d), and (e) are redesignated as paragraphs (e), (f), and (g), respectively; paragraph (b)(2) is redesignated as paragraph (c); a new paragraph (d) is added as set forth below; and the existing paragraph (b)(1) is redesignated as paragraph (b) and revised to read as follows:

§ 630.502 Sick leave recredit.

* * * * *

(b) Except as provided in paragraphs (c) and (d) of this section, an employee who is separated from the Federal Government is entitled to a recredit of sick leave if he or she is reemployed in the Federal Government without a break in service of more than 3 years.

* * * * *

(d)(1) An employee who separated from the Federal Government to accompany a civilian or uniformed sponsor on official assignment to an overseas area is entitled to a recredit of sick leave within the time limit provided by paragraph (b) of this section or within no more than 2 years after he or she returns to the United States from an overseas area to which the sponsor was assigned, whichever is later, provided the individual—

(i) Was a family member of a Federal civilian employee or of a member of a uniformed service who was assigned to an overseas area; and

(ii) Accompanied the civilian employee or uniformed sponsor on official assignment in the overseas area during the 3-year period specified in paragraph (b) of this section.

(2) For the purpose of this paragraph, "accompanied the civilian or uniformed sponsor on official assignment in the overseas area," "family member," "Federal civilian employee," "member of a uniformed service," "overseas area," "sponsor," and "United States" have the meanings given to them in § 315.608(b) of this chapter.

[FR Doc. 86-9419 Filed 4-25-86; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Parts 870, 871, 872, 873, and 890

Federal Employees' Group Life Insurance Program and Federal Employees Health Benefits Program

AGENCY: Office of Personnel Management.

ACTION: Final rule.

SUMMARY: These revised regulations permit annuitants whose disability annuities were terminated and later restored to re-enroll for health benefits coverage and resume any life insurance coverge the individual may have had immediately before his or her annuity was terminated. The regulations permit prospective coverage, upon proper application after September 15 1985, for any disability annuitant whose annuity has been restored since December 31, 1983, or is restored in the future.

EFFECTIVE DATE: May 28, 1986.

FOR FURTHER INFORMATION CONTACT: Agatha Gray, (202) 632-0003.

SUPPLEMENTARY INFORMATION: On October 17, 1985 OPM published interim regulations in the **Federal Register** (50 FR 42005) to permit a disability annuitant who was enrolled in the Federal Employees Health Benefits or Federal Employees' Group Life Insurance Program and whose annuity was terminated to resume participation in the Programs if such annuity is restored after December 31, 1983. The interim regulations implemented a provision of Pub. L. 99-53, approved June 17, 1985, which corrected a then existing inequity in the area of insurance coverge.

One written comment from an insurance company was received within the specified 30-day comment period. That insurance company offered no objections to the regulations and supported the additions to the regulations.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect Federal employees and annuitants.

List of Subjects

5 CFR Part 870

Administrative practice and procedure, Government employees, Life insurance, Retirement.

5 CFR Part 871

Adminstrative practice and procedure, Government employees, Life insurance, Retirement.

5 CFR Part 872

Administrative practice and procedure, Government employees, Life insurance, Retirement.

5 CFR Part 873

Administrative practice and procedure, Government employees, Life insurance, Retirement.

5 CFR Part 890

Administrative practice and procedure, Claims, Government employees, Health insurance.

Office of Personnel Management.

Constance Horner,

Director.

PART 890—[AMENDED]

Except for the following corrections, the Federal Employees' Group Life Insurance Program and the Federal Employees Health Benefits Program interim regulations published on October 17, 1985, (50 FR 42005) are adopted without change:

§ 890.30 [Amended.]

1. On page 42006, column 2, § 890.301, in the third line of paragraph (z), insert the word "part" between "this" and "immediately."

§ 890.306 [Amended.]

2. Also on page 42006, column 3,. § 890.306, in the second line of paragraph (f), insert the word "an" between "of" and "enrollment."

[FR Doc. 86-9418 Filed 4-25-86; 8:45 am]

BILLING CODE 6325-01-M

5 CFR Part 890

Federal Employees Health Benefits Program

AGENCY: Office of Personnel Management.

ACTION: Revised interim regulations.

SUMMARY: The Office of Personnel Management (OPM) is issuing interim regulations to implement changes to the Federal Employees Health Benefits (FEHB) program made by the Federal Employees Benefits Improvement Act of 1986. These interim regulations are a revision to interim regulations published June 13, 1985, which were issued to implement FEHB program changes made by the Civil Service Retirement Spouse Equity Act of 1984.

DATES: Interim rule effective on April 28, 1986. Comments must be received on or before May 28, 1986.

ADDRESSES: Send comments to Reginald M. Jones, Assistant Director for Pay and Benefits Policy, Compensation Group, Office of Personnel Management, P.O. Box 57, Washington, D.C. 20044, or deliver to OPM, Room 4351, 1900 E Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mary Ann Mercer, (202) 632-0003.

SUPPLEMENTARY INFORMATION: On June 13, 1985, OPM published interim regulations in the **Federal Register** (50 FR 24757) to implement changes to the FEHB program made by the Civil Service Retirement Spouse Equity Act of 1984, Pub. L. 98-615. Comments were requested from interested parties prior to publishing final regulations. Seven comments were received (four from Federal agencies, two from carriers in the FEHB program, and one from a professional association) and considered.

However, the Federal Employees Benefits Improvement Act of 1986, Pub. L. 99-251, was enacted February 27, 1986, which changed several of the provisions of Pub. L. 98-615. Therefore, OPM is issuing revised interim regulations to implement the most recent changes in law and to clarify portions of the regulations published June 13, 1985, in response to the comments received. Another opportunity to comment is provided before final regulations are issued.

A discussion of the regulatory changes made to implement Pub. L. 99-251 and the clarifying changes made to the June 13, 1985, regulations follows:

Eligible Former Spouses

Certain former spouses previously denied health benefits coverage under Pub. L. 98–615 may now receive benefits. Under Pub. L. 98–615, a former spouse who had been awarded a portion of a former employee's retirement benefits was excluded from health benefits coverage if the marriage ended before May 7, 1985. Section 201(c) of the Federal Employees Benefits Improvement Act of 1986 permits these former spouses to enroll in the FEHB program if all other requirements for coverage are met. Generally, a former spouse may now apply for health benefits under the FEHB program if he or she currently receives, or has future entitlement to receive, a portion of a former employee's retirement benefits or a survivor annuity benefit, regardless of the date of the court order evidencing the dissolution of the marriage [§ 890.803(a)(3)].

Pub. L. 99–251 also permits a former spouse of an employee who died before May 7, 1985, to enroll for health benefits providing the employee was eligible for immediate retirement on or before the date of death and all other requirements for coverage are met.

Employing Office

The interim regulations were unclear about the "employing office" (for handling FEHB enrollments) for a former spouse whose marriage to a former employee was dissolved after the employee's retirement and who has future entitlement to an annuity. In these cases, the former spouse is not an annuitant, yet the marriage dissolved after the employee retired. These revised interim regulations make it clear that the employing office for a former spouse who meets these criteria is the office which has the authority to approve payment of an annuity for the retired employee.

One agency also suggested that OPM amend the regulations to state whether the employing office [§ 890.101(a)(5)] is the operating level personnel office or central payroll records office. OPM believes that the location of the former spouse enrollment function should be left to the discretion of the individual agencies.

Enrollment Process

One comment concerned the process for obtaining an application. The commenter found the regulations unclear on what constitutes an application and from whom it is obtained. The commenter also found unclear the responsibilities of the employing office, such as, who provides the schedule of payments to the former spouse, the timeframe in which the schedule will be provided, and the timeframe within which the employing office will process the application.

These revised interim regulations clarify the enrollment and payment schedule processes. Section 890.808(a) now makes it clear that the application does not have to be a completed Standard Form 2809, Health Benefits Registration Form; it may simply be an informal written notice (letter, statement, etc.) to the employing office of intent to apply for health benefits. This application merely preserves the FEHB enrollment right while the administrative tasks associated with enrollment are being completed. Section 890.808(b)(2) now states that the employing office is responsible for sending the payment schedule to the former spouse at the time it sends notice of eligibility.

In response to the suggestion that OPM set timeframes for administrative tasks associated with the former spouse's enrollment, we have not imposed timeframes because there is no effective enforcement mechanism. However, the effective date of a former spouse enrollment (the first day of the first pay period beginning more than 30 days after the employing office receives the Standard Form 2809, or an appropriate substitute, and satisfactory proof of eligibility) discussed in the following paragraph encourages timely processing of the enrollment by the employing office. Further, we expect the number of former spouses applying for health benefits after the initial start-up period to be small enough that employing offices will be able to carry out their administrative duties in a timely manner.

Effective Date of Coverage

The effective date of enrollment under the June 13, 1985, interim regulations (i.e., the first day of the first pay period after the date of the agency's receipt of the Standard Form 2809 and satisfactory proof of eligibility) does not allow agencies sufficient time to process the enrollment. We had originally intended that enrollments for former spouses commence at the same time as enrollments of employees. Processing enrollments of former spouses requires more time, however, because the former spouse's entitlement to health coverage must be verified, while employees are automatically entitled to health coverage by virtue of their employment. Since the employing office is unable to process the enrollment until it reviews and approves the Standard Form 2809 completed by the former spouse and the documents submitted along with it as evidence of eligibility, the revised interim regulations set the effective date as the first day of the pay period beginning more than 30 days after the employing office receives the Standard Form 2809 (or an appropriate substitute) and satisfactory proof of eligibility. The 30-day provision should allow employing offices enough time to process the enrollment. In cases in which the former spouse applied for health coverage in writing prior to the effective date of these revised interim regulations, the applicable effective date will be established according to the interim regulations published on June 13, 1985. The 30-day buffer period is applicable only to cases in which the written application is filed on or after the effective date of these revised interim regulations.

Payment of Premiums

The two health carrier respondents suggested that OPM require former spouses to prepay premiums. The carriers are concerned that if premiums are due after the pay period in which the former spouse is covered, as many as four pay periods could elapse before a former spouse's coverage will be terminated for nonpayment of premium. This delay would enable the former spouse to maintain an upaid enrollment for a considerable amount of time. Further, if the former spouse fails to pay the premium within the time frames established by the regulations, coverage will be terminated retroactive to the end of the last pay period for which payment has been received. Thus, any claims payment made by the carrier during the period of upaid enrollment must be resolved between the carrier and the former spouse.

We agree that prepayment of premiums would have merit for former spouses who have no employer-employee relationship and who are required, by law, to pay both the enrollee's and the Government's share of premiums. However, the risk to FEHB carriers is inherent in the statutory extension of FEHB coverage to former spouses and we are unable to devise an administratively acceptable system of prepayments that would be effective.

Although we have not adopted the suggestion of prepaid premiums, we have revised the regulations to reduce the unpaid enrollment period to 15 days by dropping the 31-day grace period for payment of overdue premiums provided in the June 13, 1985, regulations. If the former spouse does not pay by the due date, the employing office will send the notice immediately to the former spouse

that payment must be made within 15 days after receipt of the notice or coverage will be terminated. This method of payment will prompt the former spouse to make timely payments for coverage and significantly reduce the period of risk for the carriers.

These revised interim regulations also give special consideration to the time period for premium payment for overseas personnel. Since correspondence overseas takes longer than the 15-day general provision in the regulations, we have extended the 15-day period to 45 days for former spouses overseas to allow sufficient time for them to be notified and remit payment before the agency terminates coverage.

Two comments concerned the treatment of a former spouse annuitant's coverage when the annuity is insufficient to cover the amount of the premium. One commenter suggested that rather than require the former spouse to elect a lower cost enrollment or termination of coverage the regulations should entitle the former spouse annuitant to pay the full premium or premium balance by check. Pub. L. 98–615 does not place a statutory restriction on the way in which a former spouse may make premium payments. Because the former spouse annuity, or portion of the retiree's annuity, may be quite small and because many former spouses will have already established the habit of paying directly to the employing office, we have reconsidered our position. These revised regulations now permit the former spouse to make the total premium payment directly to the retirement system when the annuity or portion of the retiree's annuity is insufficient to cover the full premium amount [§ 890.808(d)]. The former spouse, however, must pay the full premium to the retirement system. Dividing payment between an annuity withholding and a direct payment would be confusing (due to annuity fluctuations as a result of COLA increases, changes in deductions, etc.) and administratively impractical.

One agency suggested that former spouses make payments on a monthly cycle because former spouses may find it difficult to track Federal biweekly pay periods. These revised interim regulations grant agencies discretion to base the former spouse premium payment cycle on any regular pay period established for their employees, including a montly pay period.

Other

One carrier commented that, in the FEHB generally, carriers are unable to reconcile membership or payments received from OPM with any specific member and noted that this problem is exacerbated with former spouse enrollments. We do not believe that former spouse enrollments aggravate the reconciliation process. OPM currently obtains from agency records a supplemental semi-annual headcount report by plan for former spouses which is included along with the regular employee headcount report for carriers' use in reconciling enrollment. We believe that this method works reasonably well. However, OPM will continue to monitor and improve the reconciliation process.

One respondent expressed concern that § 890.804(c)(2), which denies coverage as a family member if there is evidence calling a child's paternity or maternity into question, would be inappropriately used by agencies. The respondent's concern is that a Federal agency's decision to deny coverage may supersede judicial and/or administrative findings related to parental rights. It is the intent of the regulations that agency determinations be made in accordance with statutory requirements for coverage in the FEHB program.

One carrier noted a conflict between § 890.301(f)(1) of the June 13, 1985, interim regulations, which denies a family member an entitlement to convert to an individual contract with the plan when a former spouse changes enrollment to self alone, and § 890.807(b), which entitles family members to convert to a private plan when their enrollment is terminated. OPM agrees that family members should have a right to convert when their coverage is terminated, regardless of the reasons for termination. These revised regulations treat family members who lose coverage because the former spouse changes to self alone as family members who lose coverage because of any other change in status.

Section 890.301(i) prohibits an enrollment change from self-alone to self and family when selecting a new plan upon termination of enrollment by an employee organization plan. One respondent found an apparent conflict between this provision and the provision at § 890.301(e)(2), which permits a change to self and family within 60 days after birth or acquisition of a child who meets the requirements of a qualified family member. However, there is no conflict because the prohibition in § 890.301(i) does not apply if another event permits a change to self and family.

Another commenter questioned what responsibilities agencies have to authenticate a former spouse's initial claim of eligibility or continued eligibility for health benefits. The former spouse bears the burden of providing acceptable proof (as determined by the agency) of initial eligibility. It is in the former spouse's best interest to provide any documents the agency may require as proof because failure to provide the required documents may result in delays in coverage. Once coverage is obtained, a number of circumstances will cause the former spouse to lose entitlement, such as, remarriage prior to age 55 and issuance of a revised court order terminating benefits. At the time the former spouse enrolls for health benefits, he or she is required to certify in writing that he or she will notify the employing office within 31 days of an event that terminates eligibility. Should the former spouse fail to notify the employing office of an ineligibility to continue enrollment, any claims payment made during the period of ineligibility will be resolved between the carrier and the former spouse.

Two agencies suggested that the former spouse's enrollment transfer along with the employee's when the employee transfers to a new agency, separates, or retires, rather than remain with the agency which employed the employee at the time of divorce. The agencies expressed concern that the 31-day conversion period available to the former spouse could expire before the employing office is notified of the employee's separation, transfer, or retirement from another agency. (A former spouse's enrollment would not be terminated solely by virture of a transfer or retirement because the former spouse's future title to all or a portion of annuity would still exist. It would be terminated, however, if an employee separates with no future entitlement to annuity or a separated employee dies before becoming eligible for a deferred annuity.)

The law requires that the former spouse's enrollment be processed and maintained by the office which employed the employee at the time of divorce until the former spouse begins receiving annuity payments. However, there are circumstances under which the former spouse, through no fault of his or her own, may belatedly become aware of an event that terminates his or her FEHB enrollment. In these cases, the former spouse should not lose the right to convert. Accordingly, these revised interim regulations provide a temporary extention of coverage through 31 days after the employing office's notice to the former spouse that coverage is terminated where the former spouse could not have known that (a) the employee on whose service the former

spouse's health benefits entitlement was based separated from service with no future entitlement to annuity; or (b) the separated employee on whose service the former spouse's health benefits entitlement was based died before becoming eligible for a deferred annuity. In these cases, the former spouse must pay the full premium during the extended period, exclusive of the 31-day period following the notice.

One respondent suggested a separate FEHB enrollment form for former spouses. A special enrollment form for former spouses has not been prescribed because the number of former spouses seeking health benefits coverage is not expected to be large enough to warrant procuring, stocking, and maintaining currency of a separate form. We believe the Standard Form 2809, with the "Remarks" section cross-referenced to the employee, former employee, or annuitant, is acceptable.

Waiver of Notice of Proposed Rulemaking

Pursuant to section 553(b)(3)(B) of title 5 of the U.S. Code, I find that good cause exists for waiving the general notice of proposed rulemaking. The notice is being waived because certain entitlements are conveyed immediately by the authorizing statute. Regulatory guidance is needed immediately for effective implementation.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities because the regulations merely implement the amendments to the Federal Employees Health Benefits Act under the Civil Service Retirement Spouse Equity Act of 1984, Pub. L. 98–615 and the Federal Employees Benefits Improvement Act of 1986, Pub. L. 99–251.

List of Subjects in 5 CFR Part 890

Admininistrative practice and procedure, Claims, Government employees, Health insurance, Retirement.

U.S. Office of Personnel Management.

Constance Horner,

Director.

Accordingly, OPM is amending 5 CFR Part 890 as follows:

PART 890—FEDERAL EMPLOYEES HEALTH BENEFITS PROGRAM

1. The authority citation for Part 890 is revised to read as set forth below and the authority citations following all the sections in Part 890 are removed:

Authority: 5 U.S.C. 8913; sec. 890.102 also issued under 5 U.S.C. 1104 and sec. 3(5) of Pub. L. 95–454, 92 Stat. 1112; sec. 890.301 also issued under 5 U.S.C. 8905(b); sec. 890.302 also issued under 5 U.S.C. 8901(5) and 5 U.S.C. 8901(9); sec. 890.701 also issued under 5 U.S.C. 8902(m)(2); Subpart H also issued under Title I of Pub. L. 98–615, 98 Stat. 3195, and Title II of Pub. L. 99–251.

2. Section 890.101 is amended by revising paragraphs (a)(5) and (a)(9) to read as follows:

§ 890.101 Definitions; time computations.

(a) * * *

(5) "Employing office" means the office of an agency to which jurisdiction and responsibility for health benefits actions for an employee, an annuitant, or an eligible former spouse of an employee or annuitant, have been delegated.

(i) For an enrolled annuitant (including survivor annuitant and former spouse annuitant) who is not also an eligible employee, "employing office" is the office which has the authority to approve payment of annuity or worker's compensation for the annuitant concerned.

(ii) For a former spouse of an annuitant whose marriage dissolved after the employee's retirement and who has entitlement to receive future annuity payments under section 8341(h) or 8345(j) of title 5, United States Code, "employing office" is the office which has the authority to approve payment of annuity for the annuitant or former spouse concerned.

(iii) For a former spouse of a current employee, and a former spouse of an annuitant or separated employee having title to a deferred annuity whose marriage dissolved during the employee's Federal service, "employing office" is the agency that employed the employee or annuitant at the time the marriage was dissolved.

* * * * *

(9) "Pay period" means the biweekly pay period established pursuant to section 5504 of title 5, United States Code, for the employees to whom that section applies and the regular pay period for employees not covered by that section. "Pay period" as it relates to a former spouse who is not actively receiving an annuity means any regular pay period for employees of the agency to which jurisdiction and responsibility for health benefits actions for the former spouse have been delegated as provided by paragraph (a)(5) of this section. "Pay period" for annuitants means the period for which a single installment of annuity is customarily paid.

* * * * *

3. Section 890.104 is amended by revising paragraph (a) to read as follows:

§ 890.104 Initial decision and reconsideration.

(a) *Who may file.* An employee, annuitant, or former spouse may request OPM to reconsider an initial decision of an employing office (including OPM) that denies coverage or change of enrollment.

* * * * *

4. Section 890.301 is amended by revising paragraphs (d)(2), (e), (f), (h), (i), (k), (n), and (u) to read as follows:

§ 890.301 Opportunities to register to enroll and change enrollment.

* * * * *

(d) * * *

(2) An enrolled employee, annuitant, or former spouse may change to another plan, another option, or from self alone to self and family, or may make any combination of these changes.

(e) *Change in family status.* (1) Other than a former spouse, an enrolled employee or annuitant may register to change enrollment from self alone to self and family, or from one plan or option to another, or both; and an employee, if not registered to be enrolled, may register to be enrolled, at any time during the period beginning 31 days before a change in marital status and ending 60 days after the change in marital status. Other than a former spouse, an enrolled employee or annuitant may change enrollment from self alone to self and family within 60 days after any other change in family status.

(2) An enrolled former spouse may register to change enrollment from self alone to self and family, or from one plan or option to another, or both, within 60 days after the birth or acquisition of a child who is a qualified family member under § 890.804(a) of this part.

(f) *Change to self alone.* (1) An employee, annuitant, or former spouse may register at any time to change enrollment from self and family to self alone.

(2) Other than a former spouse, an employee or annuitant who is covered by the enrollment of another under this part may elect self alone coverage within 31 days after a change in the covering enrollment has been filed under authority of this paragraph.

* * * * *

(h) *Move from area served by comprehensive medical plan.* If a comprehensive medical plan limits full service to a geographic area, an employee, annuitant, or former spouse enrolled in that plan who moves outside the full service area or, if already living outside the full service area, moves further from the full service area, may register at any time after the move, to be enrolled in another health benefits plan.

(i) *Termination by employee organization plan.* An employee, annuitant, or former spouse who is enrolled in a health benefits plan sponsored or underwritten by an employee organization and whose membership in the employee organization is terminated, may register to be enrolled in another plan under the following conditions:

(1) Health benefits enrollment is terminated by the plan; and,

(2) Registration to enroll in another plan is submitted within 31 days after termination of enrollment in the employee organization plan.

The employee, annuitant, or former spouse may not change enrollment from self alone to self and family under this paragraph.

* * * * *

(k) *Termination of plan in which enrolled.* If a plan is discontinued in whole or part, each employee, annuitant, and former spouse whose enrollment is thereby terminated may enroll in another plan. If the discontinuance is at the end of a contract period which is immediately preceded by an open season, the time for enrollment is the open season. Otherwise, OPM will establish a time and effective date for enrollment. Persons who fail to change enrollment within the time set are considered to have cancelled the plan in which enrolled, except that if one option of a plan is discontinued, enrolled employees, annuitants, and former spouses who do not change plans will be considered enrolled in the remaining option of the plan.

* * * * *

(n) *On becoming eligible for coverage under Title XVIII of the Social Security Act.* An enrolled employee, annuitant, or former spouse with a high option enrollment may register, at any time after the 31st day before he or she is eligible for coverage under Title XVIII of the Social Security Act (Medicare), to change enrollment to the low option of any available plan under this part.

* * * * *

(u) *Child's coverage ends.* An employee, annuitant, or former spouse may register to change enrollment from self alone to self and family within 31 days after an eligible child loses coverage under another enrollment under this part.

* * * * *

5. Section 890.302 is amended by revising paragraphs (d) and (e) to read as follows:

§ 890.302 Coverage of family members.

* * * * *

(d) *Child incapable of self-support.* When an employee, annuitant, or former spouse enrolls for a family which includes a child who has become 22 years of age and is incapable of self-support, the employing office will require such enrollee to submit a physician's certificate verifying the child's disability. The certificate must—

(1) State that the child is incapable of self-support because of a physical or mental disability that existed before the child became 22 years of age and that can be expected to continue for more than 1 year;

(2) Include a statement of the name of the child, the nature of the disability, the period of time it has existed, and its probable future course and duration; and,

(3) Be signed by the physician and show the physician's office address. The employing office will require the employee, annuitant, or former spouse to submit the certificate on or before the date the child becomes 22 years of age. However, the employing office may accept otherwise satisfactory evidence of incapacity not timely filed.

(e) *Renewal of certificates of incapacity.* The employing office will require the employee, annuitant, or former spouse who has submitted a certificate of incapacity to renew that certificate on the expiration of the minimum period of disability certified.

* * * * *

6. Subpart H is revised to read as follows:

Subpart H—Benefits for Former Spouses

Sec.

Supbart H—Benefits for Former Spouses

§ 890.801 Introduction.

This subpart sets forth policies and procedures for obtaining health benefits coverage that are unique to former spouses of Federal employees and retirees.

§ 890.802 Definition.

In this subpart, "Qualifying court order" means a qualifying court order as described in § 831.1704 of this title.

§ 890.803 Who may enroll.

(a) Except as specified in paragraph (b) of this section, a former spouse is eligible to enroll in a health benefits plan under this part provided that—

(1) The former spouse whose marriage to an employee or employee annuitant is dissolved has not remarried if under age 55; and

(2) The former spouse was enrolled in a health benefits plan under this part as a family member at any time during the 18 months preceding the date of the dissolution of marriage; and

(3) (i) the former spouse currently receives, or has future title to receive (A) a portion of annuity payable to the employee upon retirement based on a qualifying court order for purposes of 5 U.S.C. 8345(j); (B) survivor annuity benefits based on a qualifying court order for purposes of 5 U.S.C. 8341(h); or (C) a survivor annuity elected by the employee under 5 U.S.C. 8339(j)(3) (or benefits similar to those under this paragraph under another retirement system for Government employees); *or*

(ii) The former spouse was married to an employee who retired before May 7, 1985, and (A) the employee annuitant elects to provide a survivor annuity to the former spouse under procedures prescribed in § 831.621 of this title; or (B) the former spouse satisfies all of the conditions for a survivor annuity in § 831.622 of this title; *or*

(iii) The former spouse was married to an employee who died before May 7, 1985, and the employee was eligible for an immediate annuity on or before the date of death, *and* the former spouse satisfies all of the conditions for a survivor annuity in § 831.622 of this title.

(b) A former spouse or an employee who separates from Federal service before becoming eligible for immediate annuity is eligible to enroll only if the former spouse's marriage to the employee dissolved before the employee left Federal service.

(c) If a former spouse cannot apply for benefits on his or her own behalf because of a mental or physical disability, application may be filed by a court-appointed guardian.

§ 890.804 Coverage.

(a) *Type of enrollment.* A former spouse who meets the requirements of § 890.803 may elect coverage for self alone or for self and family. A family enrollment covers only the former spouse and any unmarried dependent

natural or adopted child of both the former spouse and the employee, former employee or employee annuitant, provided such child is not otherwise covered by a health plan under this part. An unmarried dependent child must be under age 22 or incapable of self-support because of a mental or physical disability existing before age 22. No person may be covered by two enrollments.

(b) *Proof of dependency.* (1) A child is considered to be dependent on the former spouse or the employee, former employee, or employee annuitant if he or she is—

(i) A legitimate child;

(ii) An adopted child;

(iii) A recognized natural child who lives with the former spouse or the employee, former employee, or employee annuitant in a regular parent-child relationship.

(iv) A recognized natural child for whom a judicial determination of support has been obtained; or

(v) A recognized natural child to whose support the former spouse, or the employee, former employee, or employee annuitant makes regular and substantial contributions in accordance with § 890.302(b)(2).

(c) *Exclusions from coverage.* Coverage as a family member may be denied—

(1) If evidence shows that the former spouse, employee, former employee, or annuitant did not recognize the child as his or her own, despite a willingness to support the child; or

(2) If evidence calls the child's paternity or maternity into doubt, despite the former spouse's employee's, former employee's, or employee annuitant's recognition and support of the child.

(d) *Child incapable of self-support.* When a former spouse enrolls for a family enrollment which includes a child who has become 22 years of age and is incapable of self-support, the employing office shall determine such child's eligibility in accordance with § 890.302(d), (e), and (f).

(e) *Meaning of unmarried child.* A child, under age 22 or incapable of self-support, who has never married or whose marriage has been annulled, or a child who is divorced or widowed is considered to be unmarried.

§ 890.805 Application time limitations.

Former spouses must apply for health benefits coverage by the latest of—

(a) February 27, 1987;

(b)(1) Within 60 days after the dissolution of the marriage to the Federal employee; or (2) if the marriage dissolved after retirement, within 60 days after the dissolution of the marriage or within 60 days after the retired employee elects to provide a survivor annuity for the former spouse under 5 U.S.C. 8339(j)(3); or

(c)(1) Within 60 days after the employee annuitant elects to provide a former spouse annuity under § 831.621; or (2) within 60 days after the date of the OPM notice of entitlement to a former spouse annuity under § 831.622.

§ 890.806 Effective dates of coverage

(a) *Generally.* (1) The effective date of enrollment is the first day of the pay period beginning more than 30 days after the date the employing office receives the properly completed Standard Form 2809 or an appropriate substitute (i.e., a signed statement with sufficient information to execute enrollment) and satisfactory proof of eligibility.

(2) The effective date of a change of enrollment is the first day of the pay period after the date the employing office receives the properly completed Standard Form 2809.

(b) *Change required because of insufficient annuity.* When a former spouse annuitant changes to a lower cost enrollment as provided by § 890.301(g), the change is effective immediately upon loss of coverage under the prior enrollment.

§ 890.807 Termination of enrollment.

(a)(1) A former spouse's enrollment terminates, subject to the temporary extension of coverage for conversion, at midnight of the last day of the pay period in which the earliest of the following events occurs:

(i) Court order ceases to provide entitlement to survivor annuity or portion of retirement annuity under a retirement system for Government employees.

(ii) Former spouse remarries before age 55.

(iii) Former spouse dies.

(iv) Employee or annuitant on whose service the benefits are based dies and no survivor annuity is payable.

(v) Separated employee on whose service the benefits are based dies before the requirements for deferred annuity have been met.

(vi) Employee on whose service benefits are based leaves Federal service before establishing title to an immediate annuity or a deferred annuity.

(vii) Refund of retirement money is paid to the separated employee on whose service the health benefits are based.

(2) OPM may authorize a longer time frame for the temporary extension of coverage for conversion than the 31 days provided in § 890.401(a) if in OPM's judgment the former spouse could not have known that (1) the employee on whose service benefits are based left Federal service before establishing title to an immediate or deferred annuity; or (2) the separated employee on whose service the benefits are based died before the requirements for deferred annuity had been met. In such cases, the right of conversion may be exercised up to 31 days after the employing office's notice of termination. The former spouse must pay the full premium (employee's and Government's share) during the extended period, exclusive of the 31–day period following the notice.

(3) Termination of enrollment for failure to pay premiums within the time frame establishment in accordance with § 890.808(d)(1) is retroactive to the end of the last pay period for which payment has been timely received.

(4) A former spouse whose enrollment is terminated under this paragraph may not reenroll.

(b) *Coverage of members of the family.* The coverage of a member of the family of a former spouse terminates, subject to the temporary extension of coverage for conversion, at midnight of the earlier of the following dates:

(1) The day on which the individual ceases to be an eligible family member.

(2) The day the former spouse ceases to be enrolled, unless the family member is entitled as a survivor annuitant to contined enrollment or is entitled to continued coverage under the enrollment of another.

(c) *Cancellation.* A former spouse may cancel enrollment at any time by filing with the employing office a properly completed health benefits form. If a former spouse cancels enrollment, the cancellation becames effective on the last day of the pay period after the pay period in which the health benefits form cancelling the enrollment is received by the employing office. The former spouse and family members, if any, are not entitled to the temporary extension of coverage for conversion or to convert to an individual contract for health benefits. A former spouse who cancels his or her enrollment may not later reenroll.

§ 890.808 Employing office responsibilities.

(a) *Application for benefits.* The former spouse's application for health benefits may be in the form of a Standard Form 2809, letter, or written statement to the employing office.

(b) *Administration of the enrollment process.* (1) The employing office will set up a method for accepting applications for enrollment, informing the former spouse what documents to submit and where to submit them for an eligibility determination, and collecting premium payments. The method will include procedures for verifying the eligibility requirements under § 890.803(a) (1) and (2). The employing office must obtain OPM documentation that the former spouse meets the additional requirement under § 890.803(a)(3)(i), (ii) or (iii).

(2) The employing office will send the former spouse notice, in writing, of its decision. When an employing office informs a former spouse of his or her eligibility to enroll, it will identify the documents on which it based its decision and will include a premium payment schedule and statement of the requirements for continued enrollment under § 890.803. If the former spouse does not qualify for health benefits coverage, the employing office must give the former spouse a reconsideration right under § 890.104.

(3) The employing office will maintain a health benefits file for the former spouse as a file separate from the personnel records of the employee or former employee.

(4) The former spouse will be required to certify that he or she meets the requirements listed in § 890.803 and that he or she will notify the employing office within 31 days of an event that results in failure to meet one or more of the requirements.

(c) *Qualifying court order.* Subject to a 31-day extension period for conversion, the duration of health benefits coverage will coincide with any period specified in the qualifying court order providing for an annuity. A court order not meeting the requirements under § 831.1704 will not be used to establish or continue entitlement to a former spouse's health benefits coverage.

(d) *Premium payments.* (1) The former spouse must remit to the employing office the full subscription charge for the enrollment for every pay period during which the enrollment continues, exclusive of the 31-day temporary extension of coverage for conversion provided in §§ 890.401 and 890.807(a)(2). Payment must be made in accordance with a schedule established by the employing office [see § 890.101(a)(9)]. If the employing office does not receive payment by the date due, the employing office will notify the former spouse by certified mail return receipt requested that continuation of coverage rests upon payment being made within 15 days (45 days for former spouses residing overseas) after receipt of the notice. The enrollment of an individual who fails to remit payment within the specified time frame will be terminated.

(2) The employing office will submit all premium payments collected from former spouses along with its regular health benefits payments to OPM. The full subscription charge for former spouses will be classified as "withholdings" and included in the "Withholdings" section of the Standard Form 2812, Journal Voucher and Report of Withholdings and Contributions For Health Benefits, Group Life Insurance, and Civil Service Retirement.

(e) *Withholding from annuity.* The retirement system acting as employing office for a former spouse will establish a method for withholding the full subscription charge from the former spouse's annuity check. When the annuity is insufficient to cover the full amount of health benefits premium due, the retirement system will notify the former spouse of the opportunity to register to be enrolled in another plan as provided by § 890.301(q) or to make direct payment of the full premium directly to the retirement system.

[FR Doc. 86-9420 Filed 4-25-86; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 905

Oranges, Grapefruit, Tangerines, and Tangelos Grown In Florida; Amendment of Grade and Size Requirements for Certain Grapefruit and Tangerines

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action lowers the minimum size requirements for shipments of Florida white seedless grapefruit and imports of white seedless grapefruit from size 48 (3 9/16 inches) to size 56 (3 5/16 inches). It also lowers the minimum grade requirement for domestic and export shipments of Florida Honey tangerines from Florida No. 1 to U.S. No. 2 Russet and the minimum size requirement from size 176 (2 9/16 inches) to size 210 (2 4/16 inches). The relaxations are effective through August 17, 1986. The size relaxation recognizes changes in supply and demand conditions for smaller size white seedless grapefruit and Honey tangerines and is necessary to promote the interest of growers and consumers. The relaxation in the grade requirements for Honey tangerines recognizes the grade composition of the available fruit supply, and current and prospective demand conditions for this fruit.

EFFECTIVE DATE: April 21, 1986–August 17, 1986.

FOR FURTHER INFORMATION CONTACT: Ronald L. Cioffi, Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250; telephone: (202) 447-5697.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Secretary's Memorandum 1521-1 and Executive Order 12291 and has been designated as a "non-major" rule.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities for their own behalf. Thus, both statutes have small entity orientation and compatibility.

It is estimated that about 95 handlers of Florida citrus are currently subject to regulations under the marketing order for oranges, grapefruit, tangerines, and tangelos grown in Florida and that approximately 26 importers of grapefruit will be subject to this action under the grapefruit import regulation during the course of the current season and that the great majority of these groups may be classified as small entities. While regulations issued under this order and corresponding import requirements impose some costs on affected handlers and importers and the number of such persons may be substantial, the added burden on small entities, if present at all, is not significant. This action is issued under the marketing agreement and Order No. 905 (7 CFR Part 905), both as amended, regulating the handling of oranges, grapefruit, tangerines, and tangelos grown in Florida. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action was recommended unanimously by the Citrus

Administrative Committee at is April 15, 1986, meeting. The committee works with USDA in administering the marketing agreement and order program.

Florida Citrus Regulation 6 was issued on a continuing basis subject to modification, suspension, or termination upon recommendation by the committee and approval by the Secretary. The committee meets prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Florida oranges, grapefruit, tangerines, and tangelos. Prior to making any such recommendations, the committee submits to the Secretary a marketing policy for the season including an analysis of supply and demand factors having a bearing on the marketing of the crop. Committee meetings are open to the public and interested persons may express their views at these meetings. The Department reviews committee recommendations and information submitted by the committee and other available information, and determines whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the act.

The minimum grade and size requirements, specified herein, reflect the committee's and the Department's appraisal of the need to relax the grade and size requirements applicable to domestic and export shipments of Florida Honey tangerines and the size requirements applicable to domestic and import shipments of white seedless grapefruit in recognition of the current and prospective supply and demand for such fruit. This action is necessary to permit handlers to ship the remaining supply of marketable fruit to meet market needs. Both the Florida grapefruit and tangerine shipping seasons are coming to a close, with about 90 percent of the grapefruit crop shipped and about 95 percent of the tangerines shipped through March 1986.

This action lowers the minimum size requirement for domestic and import shipments of white seedless grapefruit from size 48 (3$^{9}/_{16}$ inches) to size 56 (3$^{5}/_{16}$ inches) during the period from April 21, 1986, through August 17, 1986. This action also lowers the minimum grade and size requirements for domestic and export shipments of Florida Honey tangerines from Florida No. 1 to U.S. No. 2 Russet and size 176 (2$^{9}/_{16}$ inches) to size 210 (2$^{4}/_{16}$ inches), resepctively, during the period April 21, 1986, through August 17, 1986. The relaxation in minimum grade and size requirements for such citrus recognizes the grade and size composition of the available citrus supply, and current and prospective demand conditions for this citrus.

Under § 8e of the act (7 U.S.C. 608e–1), whenever specified commodities, including grapefruit, are regulated under a Federal marketing order, imports of that commodity must meet the same or comparable grade, size, quality, or maturity requirements as those in effect for the domestically produced commodity. Thus, the size requirement for imported white seedless grapefruit (7 CFR 944.106) also must be relaxed to conform to the size requirement for domestic shipments for Florida white seedless grapefruit during the period specified. Under the terms of the import regulation prescribed in § 944.106(a) the size requirement for imported white seedless grapefruit automatically changes to conform to the relaxed size requirement for domestic shipments of white seedless grapefruit.

Based upon the recommendation and information submitted by the Citrus Admininistrative Committee, and upon other available information, it is hereby found that regulation of Florida and imported white seedless grapefruit and Florida Honey tangerines, as hereinafter provided, will tend to effectuate the declared policy of the act.

It is impracticable, unnecessary, 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 these relaxations are based and the effective date necessary to effectuate the declared purposes of the act. This action relieves restrictions on shipments of white seedless grapefruit and Honey tangerines and must be taken promptly to enable handlers to take advantage of the relaxed requirements. Also, handlers are aware of the relaxations and the effective dates and require no additional time to comply therewith.

PART 905—[AMENDED]

List of Subjects in 7 CFR Part 905

Marketing agreements and orders, Florida, Grapefruit, Oranges, Tangelos, Tangerines.

1. The authority citation for 7 CFR Part 905 continues to read as follows:

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

2. The provisions of § 905.306 are amended by revising the following entry in Table I, paragraph (a), applicable to domestic shipments, and Table II, paragraph (b), applicable to export shipments, to read as follows:

§ 905.306 Orange, Grapefruit, Tangerine and Tangelo Regulation 6, Amendment 38.

(a) * * *

TABLE I

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
* * * * * * *			
Grapefruit:			
Seedless, white	April 21, 1986 to Aug. 17, 1986	Improved No. 2 (External) U.S. No. 1 (Internal).	3 1/16
	On or after Aug. 18, 1986	Improved No. 2 (External) U.S. No. 1 (Internal).	3 1/16
Tangerine:			
Honey	Apr. 21, 1986 to Aug. 17, 1986	U.S. No. 2 Russet	2 4/16
	On or after Aug. 18, 1986	Florida No. 1	2 5/16
* * * * * * *			

TABLE II

Variety	Regulation period	Minimum grade	Minimum diameter (inches)
(1)	(2)	(3)	(4)
* * * * * * *			
Tangerine:			
Honey	Apr. 21, 1986 to Aug. 17, 1986	U.S. No. 2 Russet	2 4/16
	On or after Aug. 18, 1986	Florida No. 1	2 5/16
* * * * * * *			

* * * * *

Dated: April 22, 1986.

Thomas R. Clark,

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

[FR Doc. 86-9392 Filed 4-25-86; 8:45 am]

BILLING CODE 3410-02-M

7 CFR Part 1032

Milk in the Southern Illinois Marketing Area; Order Suspending Certain Provisions of the Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: The action suspends for April 1986 the limitation on the amount of milk that may be delivered directly from the farms of producers to nonpool plants and still be pooled and priced under the Southern Illinois order. The action was requested by a cooperative association that represents producers who supply milk for the market. This suspension is necessary because proponent cooperative recently lost a fluid-use account. This suspension will assure that the cooperative's member dairy farmers who have regularly supplied the market's fluid needs will continue to share in the market's Class I sales during April 1986.

EFFECTIVE DATE: April 28, 1986.

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

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued March 28, 1986; published April 3, 1986 (51 FR 10452).

The Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers who have regularly supplied the market's fluid needs will continue to have their April 1986 milk production pooled and priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Southern Illinois marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on April 3, 1986 (51 FR 10452) concerning a proposed suspension of certain provisions of the order. Interested persons were afforded opportunity to file written data, views, and arguments thereon. No comments opposing the proposed action were received.

After consideration of all relevant material, including the proposal in the notice and other available information, it is hereby found and determined that for the month of April 1986 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1032.13(b)(2), the words "on any day during the months of May, June, and July, during the months of August and December for not more than 12 days of production of producer milk by such producer, and in any other month for not more than 8 days of production of producer milk by such producer;"

Statement of Consideration

This action suspends the April 1986 limitation on diversions of milk to certain nonpool plants. The suspension will allow unlimited quantities of a dairy farmer's April milk production to be moved directly from the farm to manufacturing plants that are not regulated under a Federal order and remain pooled and priced under the order.

Under the current order provisions, not more than 8 days of a producer's April milk production may be diverted to such nonpool plants. During the following months of May through July, there is no limit on such diversions.

The proposal to remove the April limit this year was made by the National Farmers Organization (NFO), a cooperative association that represents dairy farmers who supply milk for the market. Public comments on the proposed action were invited. No opposing views were received.

The suspension is needed because NFO recently lost a Class I account. The milk which had been supplied by the proponent cooperative to a pool distributing plant located in the St. Louis area has been replaced by receipts from producers who have not been associated with the Southern Illinois order and the cooperative's milk is now without a fluid-use market. Without the suspension, the cooperative would have to make costly and inefficient movements of milk solely to qualify the milk of producers who have regularly supplied the market's fluid needs for pool participation in April.

Since unlimited diversions are permitted during the months of May-July, a suspension of the limit for April will give NFO four months to evaluate its marketing situation under this order. It would also give the cooperative time to make any adjustments it deems necessary to accommodate its loss of a fluid milk account.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions

in the marketing area in that without the suspension costly and inefficient movements of milk would have to be made to qualify the milk of producers who have regularly supplied the market's fluid needs for pool participation in April 1986.

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No views were filed in opposition to this action.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1032

Milk marketing orders, Milk, Diary products.

It is therefore ordered, That the aforesaid provisions in § 1032.13(b)(2) of the Southern Illinois order are hereby suspended for April 1986.

PART 1032—MILK IN THE SOUTHERN ILLINOIS MARKETING AREA

1. The authority citation for 7 CFR Part 1032 continues to read as follows:

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

§ 1032.13 [Suspended in Part]

2. In § 1032.13(b)(2), the words "on any day during the months of May, June, and July, during the months of August and December for not more than 12 days of production of producer milk by such producer, and in any other month for not more than 8 days of production of producer milk by such producer;" are suspended.

Effective date: April 28, 1986.

Signed at Washington, DC, on: April 22, 1986.

Karen K. Darling,

Deputy Assistant Secretary, Marketing & Inspection Services.

[FR Doc. 86–9458 Filed 4–25–86; 8:45 am]

BILLING CODE 3410–02–M

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7 CFR Part 1040

Milk in the Southern Michigan Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rules.

SUMMARY: This action suspends for the months of April through September 1986 the requirement in the Southern Michigan Federal milk order that a cooperative association deliver to pool distributing plants at least 50 percent of its members' producer milk in order to qualify its supply plants as pool plants under the order. The suspension was requested by a cooperative association that represents producers supplying milk to the fluid market. The action is needed to ensure that dairy farmers who historically have been associated with the Southern Michigan market will continue to share in the market's fluid milk sales.

EFFECTIVE DATE: April 28, 1986.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–4829.

SUPPLEMENTARY INFORMATION: Prior document in this proceeding:

Notice of Proposed Suspension: Issued March 26, 1986; published April 1, 1986 (51 FR 11053).

The Admininstrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. Such action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers will continue to have their milk priced under the order and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the Southern Michigan marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on April 1, 1986 (51 FR 11053) concerning a proposed suspension of certain provisions of the order. Interested parties were afforded an opportunity to file data, views, and arguments thereon. No comments were received.

After consideration of all relevant information, including the proposal in the notice and other available information, it is hereby found and determined that for the months of April through September 1986 the following provisions of the order do not tend to effectuate the declared policy of the Act:

1. In § 1040.7(b)(2), the words "if transfers from supply plants to plants described in paragraph (b)(5) of this section and by direct delivery from the farm to plants qualified under paragraph (a) of this section are:"

2. In § 1040.7(b)(2), paragraphs (i) and (ii).

Statement of Consideration

This action makes inoperative for the months of April through September 1986 the provisions requiring a cooperative association to deliver at least 50 percent of its members' producer milk to pool distributing plants, either through its supply plants or directly from farms, in order to qualify the supply plants as pool plants. The suspension was requested by Michigan Milk Producers Association (MMPA), which represents producers supplying the market.

This action is needed because milk production in this market has increased approximately four percent during the first three months of 1986 compared to 1985 and at the same time the cooperative's Class I sales to distributing plants have decreased about ten percent from 1985. Producer milk utilized for Class I milk increased only 0.5 percent for the first three months of 1986 compared to 1985.

MMPA pools approximately 87 percent of its members' milk on the Southern Michigan market using the supply plant pooling standard. MMPA during February and March 1986, processed through its balancing plants about 86 percent of the market's reserve milk supply while its market share of producer milk was only 64 percent. This imbalance is expected to become more severe during the spring flush and summer months because other cooperative associations operating in the market lack sufficient manufacturing facilities.

Because of the above, it is inappropriate to maintain the qualification requirement for a cooperative association to deliver to distributing plants at least 50 percent of its members' producer milk in order to qualify its supply plants as pool plants under the order.

If the provisions were not suspended for the months of April through September 1986, MMPA likely would encounter considerable difficulty in pooling certain supply plants and the milk of producers who historically have been associated with the Southern Michigan fluid market. Without the suspension, milk would be shipped in an inefficient and costly manner merely to assure its continued pooling under the order. This would disrupt the orderly marketing of milk in the Southern Michigan marketing area.

It is hereby found and determined that thirty days' notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) This suspension is necessary to reflect current marketing conditions in the marketing area in that substantial quantities of milk from producers who regularly supply the market otherwise could be excluded from the marketwide pool, or else shipped in an inefficient and costly manner, thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded an opportunity to file written data, views, or arguments concerning this suspension. No comments were filed.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1040

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the following language in § 1040.7(b)(2) of the Southern Michigan order is suspended for the months of April through September 1986, as follows:

PART 1040—MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

1. The authority citation for 7 CFR Part 1040 continues to read as follows:

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

§ 1040.7 [Suspended in Part]

2. In 7 CFR Part 1040, the following words in § 1040.7(b)(2) are suspended: "if transfers from such supply plant to plants described in paragraph (b)(5) of this section and by direct delivery from the farm to plants qualified under paragraph (a) of this section are:"

3. In 7 CFR Part 1040, paragraphs (i) and (ii) in § 1040.7(b)(2) are suspended.

Effective date: April 28, 1986.

Signed at Washington, DC on: April 22, 1986.

Karen K. Darling,

Deputy Assistant Secretary, Marketing & Inspection Services.

[FR Doc. 86–9460 Filed 4–25–86; 8:45 am]

BILLING CODE 3410-02-M

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7 CFR Part 1094

Milk in the New Orleans-Mississippi Marketing Area; Order Suspending Certain Provision

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action suspends for the months of April through June 1986 the percentage of producer milk of members of a cooperative that must be delivered to a pool distributing plant in order for a cooperative association to qualify its plant as a pool plant under the New Orleans-Mississippi order for that month. The suspension was requested by a cooperative association with member-producers who supply milk for the market. Interested parties were invited to submit comments regarding the proposed suspension. No comments in opposition were received. The action is needed to ensure that dairy farmers who have historically supplied the fluid needs of the New Orleans-Mississippi market will share in the market's Class I milk sales during April through June 1986.

EFFECTIVE DATE: April 28, 1986.

FOR FURTHER INFORMATION CONTACT: Robert F. Groene, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–2089.

SUPPLEMENTARY INFORMATION: The Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers who have been historically associated with the market continues to have their milk priced under the order for April through June 1986 and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and of the order regulating the handling of milk in the New Orleans-Mississippi marketing area.

After consideration of all relevant material it is hereby found and determined that for the months of April through June 1986 the following provision of the order does not tend to effectuate the declared policy of the Act:

In § 1094.7(c), the provision "45 percent or more of the".

Statement of Consideration

This action removes for April through June 1986 the requirement that 45 percent of the producer milk of members of a cooperative association must be physically received at pool distributing plants during the month in order for a balancing plant operated by a cooperative association to qualify as a pool plant under the New Orleans-Mississippi milk order. The suspension was requested by Gulf Dairy Association, Inc., a cooperative association, for the months of March through June 1986. Proponent cooperative represents a large number of the market's producers.

This action is needed due primarily to a sudden reduction in Class I sales by a distributing plant that is supplied by proponent cooperative. The plant bottles a major portion of its bulk milk receipts under the same label as milk bottled by another plant in a nearby market. Some milk in such nearby market was contaminated with the pesticide heptachlor. As a consequence, consumers are reluctant to buy milk that is packaged under such label regardless of where such milk is bottled. Such action by consumers has lessened the amount of milk bottled by the plant that the cooperative supplies raw milk to and, thus, resulted in a reduction in Class I sales to the plant by the cooperative association.

The resulting loss of Class I sales has forced the cooperative to use in its balancing plant for the manufacture of cheese much of the milk supply previously associated with such Class I use. Such shift in the use of member milk of the cooperative will result in the cooperative not meeting the pooling requirement that 45 percent or more of the producer milk of members of the cooperative association must be physically received during the month at pool distributing plants. Consequently, unless the suspension action is granted, producers who have historically supplied the fluid milk needs of the market would not have their milk priced and pooled under the order.

Suspension action for the month of March was granted in a prior document. There was no opportunity to invite interested parties to comment on the suspension for March since the request was not received until March 20.

With regard to cooperative's request for suspension action for the additional months of April through June, interested parties were invited to submit comments. No comments in opposition were received.

It is hereby found and determined that thirty days' notice of the effective date hereof are impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that substantial quantities of milk of producers who regularly supply the market otherwise would be excluded from the marketwide

pool, thereby causing a disruption in the orderly marketing of milk; and

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given interested parties and they were afforded opportunity to file written data, views, or arguments concerning this suspension. No comments in opposition were received.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register**.

List of Subjects in 7 CFR Part 1094

Milk marketing orders, Milk, Dairy Products.

It is therefore ordered, That the aforesaid provision in § 1094.7(c) of the New Orleans-Mississippi order is hereby suspended for April through June 1986.

PART 1094—MILK IN THE NEW ORLEANS-MISSISSIPPI MARKETING AREA

1. The authority citation for 7 CFR Part 1094 continues to read as follows:

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

§ 1094.7 [Suspended in Part]

2. In § 1094.7(c) the provisions "45 percent or more of the" is suspended.

Effective Date: April 28, 1986.

Signed at Washington, DC, on: April 22, 1986.

Karen K. Darling,

Deputy Assistant Secretary, Marketing & Inspection Services.

[FR Doc. 86–9461 Filed 4–25–86; 8:45 am]

BILLING CODE 3410-01-M

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7 CFR Part 1106

Milk in the Southwest Plains Marketing Area; Order Suspending Certain Provisions

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Suspension of rule.

SUMMARY: This action continues through August 1986 a suspension of the 20-percent shipping standard in the Southwest Plains order that certain supply plants must meet to qualify as pool plants. The action was requested by a cooperative association and supported by two other cooperatives and the operator of a supply plant. These parties represent a substantial majority of the producers who supply milk for the market. This action, which extends a suspension of the supply plant shipping standard for March to meet emergency marketing conditions, is needed to ensure that dairy farmers who have historically supplied the fluid needs of the market will share in the market's Class I milk sales during the months of April through August 1986.

EFFECTIVE DATE: April 28, 1986.

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

SUPPLEMENTARY INFORMATION: Prior document in this proceeding: Notice of Proposed Suspension: Issued March 28, 1986; published April 3, 1986 (51 FR 11453).

The Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. This action lessens the regulatory impact of the order on certain milk handlers and tends to ensure that dairy farmers who have been historically associated with the market will continue to have their milk priced under the order for the months of April through August 1986 and thereby receive the benefits that accrue from such pricing.

This order of suspension is issued pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*) and of the order regulating the handling of milk in the Southwest Plains marketing area.

Notice of proposed rulemaking was published in the **Federal Register** on April 3, 1986 (51 FR 11453) concerning a proposed suspension of certain provisions of the order. Interested parties were afforded the opportunity to file written data, views and arguments. No comments opposing the proposed action were received.

After consideration of all relevant material, including the proposal in the notice and all other available information, it is hereby found and determined that for the months of April through August 1986 the following provisions of the order do not tend to effectuate the declared policy of the Act:

In § 1106.7(b)(1), the words "until any month of such period in which less than 20 percent of the milk received or diverted as previously specified, is shipped to plants described in paragraph (a) of this section. A plant not meeting such 20 percent requirement in any month of such February-August period shall be qualified in any remaining month of such period only if transfers and diversions pursuant to paragraph (b)(2) of this section to plants described in paragraph (a) of the section are not less than 50 percent of receipts or diversions, as previously specified."

Statement of Consideration

This action continues through August 1986 a suspension of the 20-percent shipping standard that certain supply plants must meet to qualify as pool plants under the Southwest Plains order.

The current order provides that a supply plant which qualified as a pool plant during each of the immediately preceding months of September through January shall continue to be a pool plant during the following months of February through August if at least 20 percent of the supply plant's receipts are shipped to distributing plants.

The proposal to suspend the shipping standard for the months of April through August 1986 was made by Mid-America Dairymen, Inc. (Mid-Am). The action is supported by two other cooperative associations and the operator of a supply plant at Bentonville, Arkansas. These organizations represent a substantial majority of the market's producers.

Because of the emergency marketing conditions that resulted from a pesticide problem, the 20-percent standard was suspended for March. An extension of the action for March is needed because handlers operating fluid milk plants that are regulated under the order are still refusing to accept any milk produced in Arkansas because some of the milk supply has been found to contain the pesticide heptachlor. As a result, a substantial number of dairy herds in Arkansas have been quarantined. Although milk from these farms is not being marketed, the operators of the fluid bottling plants want to avoid the risk of receiving contaminated milk and are refusing to accept any milk produced on other farms in the area.

In its comments Mid-Am stated that, although no new herds have been quarantined recently, adverse publicity associated with the pesticide situation has resulted in distributing plants continuing to not accept milk from the Arkansas area.

The milk supply for fluid plants that normally originates on farms in Arkansas has been replaced by milk from other states and the Arkansas produced milk that is normally received at the Bentonville supply plant for shipment to distributing plants continues to be without a fluid-use market. Since the magnitude and duration of the pesticide problem is not specifically known at this time, an extension of the current suspension will permit Arkansas producers who have historically supplied the market's fluid

milk needs to continue to have their April-August milk production priced and pooled under the order.

It is hereby found and determined that thirty day's notice of the effective date hereof is impractical, unnecessary and contrary to the public interest in that:

(a) The suspension is necessary to reflect current marketing conditions and to assure orderly marketing conditions in the marketing area in that without such action substantial quantities of milk of producers who have regularly supplied the market's fluid needs would be excluded from the marketwide pool, thereby causing a disruption in the orderly marketing of milk;

(b) This suspension does not require of persons affected substantial or extensive preparation prior to the effective date; and

(c) Notice of proposed rulemaking was given to interested parties and they were afforded opportunity to file written data, views or arguments concerning this suspension. No views opposing such action were received.

Therefore, good cause exists for making this order effective upon publication in the **Federal Register.**

List of Subjects in 7 CFR Part 1106

Milk marketing orders, Milk, Dairy products.

It is therefore ordered, That the aforesaid provisions in § 1106.7(b)(1) of the Southwest Plains order are hereby suspended for the months of April through August 1986.

PART 1106—MILK IN THE SOUTHWEST PLAINS MARKETING AREA

1. The authority citation for 7 CFR Part 1106 continues to read as follows:

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

§ 1106.7 [Suspended in Part]

2. In § 1106.7(b)(1), the words "until any month of such period in which less than 20 percent of the milk received or diverted as previously specified, is shipped to plants described in paragraph (a) of this section. A plant not meeting such 20 percent requirement in any month of such February-August period shall be qualified in any remaining month of such period only if transfers and diversions pursuant to paragraph (b)(2) of this section to plants described in paragraph (a) of the section are not less than 50 percent of receipts or diversions, as previously specified." are suspended.

Effective Date: April 28, 1986.

Signed at Washington, DC., on: April 22, 1986.

Karen K. Darling,

Deputy Assistant Secretary, Maketing & Inspection Service.

[FR Doc. 86-9459 Filed 4-29-86; 8:45]

BILLING CODE 3410-02-M

Animal and Plant Health Inspection Service

9 CFR Part 166

[Docket No. 86-033]

Swine Health Protection Provisions; Kentucky

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Affirmation of interim rule.

SUMMARY: This document affirms the interim rule which removed Kentucky from the list of States that have primary enforcement responsibility under the Swine Health Protection Act (the Act) and added Kentucky to the list of States that do not have primary enforcement responsibility under the Act but, under cooperative agreements with the Animal and Plant Health Inspection Service, issue licenses to persons desiring to operate a treatment facility for garbage that is to be treated and fed to swine. This amendment was made pursuant to a request from Kentucky and section 10 of the Act. The intended effect of this amendment is to help ensure that certain requirements for the feeding of garbage to swine under the Act are enforced in Kentucky and thereby help prevent the dissemination of certain swine diseases.

EFFECTIVE DATE: April 28, 1986.

FOR FURTHER INFORMATION CONTACT: Dr. L. W. Schnurrenberger, Special Diseases Staff, VS, APHIS, USDA, Room 822, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8487.

SUPPLEMENTARY INFORMATION:

Background

A document published in the **Federal Register** on January 16, 1986 (51 FR 2347–2348), amended the "Swine Health Protection Provisions" regulations in 9 CFR Part 166 with respect to Kentucky. Pursuant to a request from Kentucky and pursuant to the requirements of section 10 of the Swine Health Protection Act (the Act), the document removed Kentucky from the list of States that have primary enforcement responsibility under the Act and added Kentucky to the list of States that do not have primary enforcement responsibility under the Act but, under cooperative agreements with the Animal and Plant Health Inspection Service, issue licenses to persons desiring to operate a treatment facility for garbage that is to be treated and fed to swine.

The interim rule became effective upon publication. Comments were solicited for 60 days following publication. No comments were received. The factual situation which was set forth in the interim rule still provides a basis for the amendment.

Executive Order 12291 and Regulatory Flexibility Act

This action is issued in conformance with Executive Order 12291 and has been determined to be not a major rule. Based on information compiled by the Department, it has been determined that this action will not have a significant effect on the economy; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause 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.

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

Persons who operate facilities for the treatment of garbage to be fed to swine and certain persons who feed or permit the feeding of garbage to swine are required to be regulated because of the Swine Health Protection Act. Almost all persons who operate facilities for the treatment of garbage to be fed to swine or who feed or permit the feeding of garbage to swine would be considered small entities. Further, the amendments affirmed by this document will affect less than one percent of such persons who operate facilities for the treatment of garbage to be fed to swine and less than one percent of such persons who feed or permit the feeding of garbage to swine.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental

consultation with State and local officials. (See 7 CFR 3015, Subpart V).

List of Subjects in 9 CFR Part 166

African swine fever, Animal diseases, Foot-and-mouth disease, Garbage, Hog cholera, Hogs, Swine vesicular disease, Vesicular exanthema of swine.

PART 166—SWINE HEALTH PROTECTION

Accordingly, the interim rule amending § 166.14 of 9 CFR 166, published in the **Federal Register** at 51 FR 2347–2348 on January 16, 1986, is adopted as a final rule.

Authority: 7 U.S.C. 3802, 3803, 3804, 3808, 3809, 3811; 7 CFR 2.17, 2.51, and 371.2(d).

Done at Washington, DC, this 23rd day of April 1986.

Billy G. Johnson,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 86–9462 Filed 4–25–86; 8:45 am]

BILLING CODE 3410-34-M

FEDERAL RESERVE SYSTEM

12 CFR Parts 207, 220, 221 and 224

Securities Credit Transactions; Regulations G, T, U and X

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: The List of Marginable OTC Stocks is comprised of stocks traded over-the-counter (OTC) that have been determined by the Board of Governors of the Federal Reserve System to be subject to the margin requirements under certain Federal Reserve regulations. The List is published from time to time by the Board as a guide for lenders subject to the regulations and the general public. This document sets forth additions to or deletions from the previously published List effective February 11, 1986 and will serve to give notice to the public about the changed status of certain stocks.

EFFECTIVE DATE: May 13, 1986.

FOR FURTHER INFORMATION CONTACT: Peggy Wolffrum, Research Assistant, Division of Banking Supervision and Regulation, Board of Governors of the Federal Reserve System, Washington, DC 20551, (202)–452–2781, or Joy W. O'Connell, Telecommunication Device for the Deaf (TDD) (202)–452–3244.

SUPPLEMENTARY INFORMATION: Set forth below are stocks representing additions to or deletions from the Board's List of Marginable OTC Stocks. A copy of the complete List incorporating these additions and deletions was filed with the original of this document. This List supersedes the last complete List which was effective February 11, 1986 (51 FR 3938, January 31, 1986). The List includes those stocks that the Board of Governors has found meet the criteria specified by the Board and thus have the degree of national investor interest, the depth and breadth of market, and the availability of information respecting the stock and its issuer to warrant incorporating such stocks within the requirements of Regulations G, T, U and X (12 CFR 207, 220, 221 and 224, respectively). It also includes, as a result of an amendment to the margin regulations (49 FR 35756, September 12, 1984), any stock designated under an SEC rule as qualified for trading in a national market system (NMS Security). The List of Marginable OTC Stocks, as it is now called, is a composite of the List of OTC Margin Stocks and all NMS securities. Additional OTC securities may be designated as NMS securities in the interim between the Board's quarterly publications. They will become automatically marginable at broker-dealers upon the effective date of their designation. The names of these securities are available at the Board and the Securities and Exchange Commission and will be subsequently incorporated into the Board's next quarterly List. Copies of the current List may be obtained from any Federal Reserve Bank.

The requirements of 5 U.S.C. 553 with respect to notice and public participation were not followed in connection with the issuance of this amendment due to the objective character of the criteria for inclusion and continued inclusion on the List specified in 12 CFR 207.6(a) and (b), 220.17(a) and (b), and 221.7(a) and (b). No additional useful information would be gained by public participation. The full requirements of 5 U.S.C. 553 with respect to deferred effective date have not been followed in connection with the issuance of this amendment because the Board finds that it is in the public interest to facilitate investment and credit decisions based in whole or in part upon the composition of this List as soon as possible. The Board has responded to a request by the public and allowed a two-week delay before the List is effective.

List of Subjects

12 CFR Part 207

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, National Market System (NMS security), Reporting requirements, Securities.

12 CFR Part 220

Banks, Banking, Brokers, Credit, Federal Reserve System, Margin, Margin requirements, Investments, National Market System (NMS security), Reporting requirements, Securities.

12 CFR Part 221

Banks, Banking, Credit, Federal Reserve System, Margin, Margin requirements, Securities, National Market System (NMS security), Reporting requirements.

12 CFR Part 224

Banks, Banking, Borrowers, Credit, Federal Reserve System, Margin, Margin requirements, Reporting requirements, Securities.

Accordingly, pursuant to the authority of sections 7 and 23 of the Securities Exchange Act of 1934, as amended (15 U.S.C. 78g and 78w), and in accordance with § 207.2(k) and 6(c) of Regulation G, § 220.2(s) and 17(c) of Regulation T, and § 221.2(j) and 7(c) of Regulation U, there is set forth below a listing of additions to and deletions from the Board's List:

Additions to the List

ADMAC INC.
$.01 par common
ARC INTERNATIONAL CORPORATION
No par common
AID CORPORATION
No par common
AKTIEBOLAGET SKF
American Depository Receipts (Sek 50 per shares)
ALEX. BROWN INCORPORATED
$.10 par common
ALL AMERICAN GOURMET COMPANY
$.10 par common
AMERICAN NUCLEAR CORPORATION
$.04 par common
AMERICAN NUCLEONICS CORPORATION
$.03–1/3 par common
AMERICAN SAVINGS BANK, FSB (New York)
No par cumulative convertible preferred
AMERTEK, INC.
No par common
ANALYSIS & TECHNOLOGY, INC.
$.125 par common
AUTODIE CORPORATION
$.05 par common
BANCORP OF MISSISSIPPI, INC.
$2.50 par common
BASE TEN SYSTEMS, INC.
Class B, $1.00 par common

BIO-LOGIC SYSTEMS CORP.
$.01 par common
BOGERT OIL COMPANY
$.01 par common
BROADWAY FINANCIAL CORPORATION
No par common
CNB BANCSHARES, INC.
No par common
CADNETIX CORPORATION
$.01 par common
CAPE COD BANK AND TRUST COMPANY
$20.00 par capital
CENTERBANC SAVINGS ASSOCIATION
$2.00 par common
CENTRUST SAVINGS BANK (Florida)
$.01 par common
CENTURY COMMUNICATIONS CORP.
Class A, $.01 par common
CHESAPEAKE INDUSTRIES, INC.
$1.00 par common
CHEYENNE SOFTWARE INC.
$.01 par common
COLOR SYSTEMS TECHNOLOGY, INC.
$.15 par common
COMPUCHEM CORPORATION
$.01 par common
CONCURRENT COMPUTER CORPORATION
$.01 par common
CONGRESS VIDEO GROUP, INC., THE
$.10 par common
Warrants (expire 07–15–92)
CONSERVATIVE SAVINGS BANK (Nebraska)
$.01 par common
CONTINUING CARE ASSOCIATES, INC.
$.01 par common
CORNERSTONE FINANCIAL CORPORATION
No par common
CRAFTMATIC/CONTOUR INDUSTRIES, INC.
$.01 par common
CROSBY, PHILIP ASSOCIATES, INC.
$.01 par common
CROWN ANDERSON INC.
$.10 par common
EMC CORPORATION
$.01 par common
EL POLLO ASADO, INC.
No par common
EXAR CORPORATION
No par common
FAMILY STEAK HOUSES OF FLORIDA, INC.
$.01 par common
FIGGIE INTERNATIONAL HOLDINGS INC.
Class A, $.10 par common
FINANCIAL NEWS NETWORK, INC.
No par common
FIRST ALBANY COMPANIES INC.
$.01 par common
FIRST EXECUTIVE CORPORATION
Series D, $1.00 par cumulative convertible preferred
Series E, $1.00 par depository preferred
Series G, $1.00 par cumulative convertible preferred
Warrants (expire 11–15–90)
FIRST FAMILY GROUP, INC.
No par common
FIRST FEDERAL SAVINGS & LOAN ASSOCIATION OF COEUR D'ALENE
$1.00 par common
FIRST FEDERAL SAVINGS OF ARKANSAS, F.A.
$.01 par common
FIRST MUTUAL SAVINGS BANK (Washington)
$1.00 par common
FLORIDA EXPRESS, INC.
$.01 par common
FRANKLIN SAVINGS & LOAN ASSOCIATION (Michigan)
$8.00 par common
GV MEDICAL, INC.
$.05 par common
GOOD GUYS, INC., THE
$.01 par common
GREAT COUNTRY BANK (Connecticut)
$1.00 par common
GREENERY REHABILITATION GROUP, INC.
$.01 par common
HAMMER TECHNOLOGIES, INC.
$.001 par common
HANSON, JOHN, SAVINGS & LOAN, INC.
$1.00 par common
HARVARD SECURITIES GROUP, PLC
American depository receipts for ordinary shares (par value 2p)
HEEKIN CAN, INC.
$.01 par common
HENRY, JACK & ASSOCIATES, INC.
$.01 par common
HODGSON HOUSES, INC.
$.01 par common
HOME & CITY SAVINGS BANK (New York)
$1.00 par common
HOSPOSABLE PRODUCTS, INC.
$.01 par common
Warrants (expire 02–02–89)
HUTCHINSON TECHNOLOGY INC.
$.02 par common
IFR SYSTEMS, INC.
$.01 par common
INDUSTRIAL TRAINING CORPORATION
$.10 par common
INTERNATIONAL AMERICAN HOMES, INC.
$.01 par common
INTERNATIONAL LEASE FINANCE CORPORATION
Series A, no par cumulative convertible preferred
INTERNATIONAL MOBILE MACHINES CORPORATION
$.10 par convertible preferred
Warrants (expire 08–05–88)
ISCO, INC.
$.10 par common
KINGS ROAD ENTERTAINMENT, INC.
$.01 par common
LINCOLN SAVINGS BANK (Pennsylvania)
$1.00 par common
LINDAL CEDAR HOMES, INC.
$1.00 par common
LINEAR FILMS, INC.
$1.00 par common
LIVINGWELL, INC.
$.10 par common
MEDICAL HOMECARE, INC.
$.01 par common
MEDICAL IMAGING CENTERS OF AMERICA, INC.
No par common
MEYERS PARKING SYSTEM, INC.
$.10 par common
MICHAELS, J., INC.
$1.00 par common
MICRON TECHNOLOGY, INC.
14% convertible subordinated debentures
MICROSOFT CORPORATION
$.001 par common
NATIONAL FSI, INC.
$.01 par common
NATIONAL HEALTHCARE, INC.
$.01 par common
NATIONAL SAVINGS BANK OF ALBANY
$1.00 par common
NORTH SIDE SAVINGS BANK (New York)
$1.00 par common
NORTHEAST SAVINGS, F.A. (Connecticut)
Series A, $2.25 cumulative convertible preferred
OMI CORP.
$.50 par common
OLIVER'S STORES, INC.
$.01 par common
OPEN AIR MARKETS, INC.
$.05 par common
ORACLE SYSTEMS CORPORATION
No par common
PAN AMERICAN MORTGAGE CORP.
$1.00 par common
PAPER CORPORATION OF AMERICA
Series B, $.01 par preferred stock
PATTEN CORPORATION
$.01 par common
PEANUT SHACK OF AMERICA, INC., THE
$.02 par common
PEOPLES BANK (North Carolina)
$5.00 par capital
PIPER JAFFRAY INCORPORATED
$1.00 par common
POLYCAST TECHNOLOGY CORPORATION
$.01 par common Warrants (expire 08–01–92)

PRESENT COMPANY, INC.
$.10 par common
PRICE/STERN/SLOAN PUBLISHERS, INC.
No par common
PRICE, T. ROWE ASSOCIATES, INC.
$.20 par common
PRISM ENTERTAINMENT CORPORATION
$.01 par common
RONSON CORPORATION
$1.00 par common
ROWLEY-SCHER REPROGRAPHICS, INC.
$.01 par common
SANFORD CORPORATION
$.01 par common
SATELLITE MUSIC NETWORK, INC.
$.10 par common
SIERRA CAPITAL REALTY TRUST IV
No par common
SOUTHERN HOME SAVINGS BANK (Florida)
$1.00 par common
SPEC'S MUSIC, INC.
$.01 par common
SPROUSE-REITZ STORES, INC.
$10.00 par common
SUN MICROSYSTEMS, INC.
$.00067 par common
SUNGARD DATA SYSTEMS, INC.
$.01 par common
SUTRON CORPORATION
$.01 par common
SYNERGEN, INC.
$.01 par common
TSO FINANCIAL CORP.
$.01 par common
TVX BROADCAST GROUP, INC.
$.01 par common
TECHNOLOGY DEVELOPMENT CORPORATION
$.01 par common
TELECOMMUNICATIONS NETWORK, INC.
$.01 par common
TOPS MARKETS, INC.
$.01 par common
TUESDAY MORNING, INC.
$.01 par common
20TH CENTURY INDUSTRIES
No par common
UNITED SAVINGS BANK (Virginia)
$5.00 par common
U.S. INTEC, INC.
$.02 par common
U.S. PLAYING CARD CORP.
$.10 par common Warrants (expire 06–15–90)
VWR CORPORATION
$1.00 par common
VERONEX RESOURCES, LTD.
No par common
VULCAN INDUSTRIAL PACKAGING LIMITED
No par common
WAREHOUSE CLUB, INC.
$.10 par common
WARWICK INSURANCE MANAGERS, INC.
No par common
WHOLESALE CLUB, INC., THE
$1.00 par common

Deletions From List

Stocks Removed for Failing Continued Listing Requirements

ACAPULCO RESTAURANTS
$.10 par common
ADVANCED ENERGY CORPORATION
$.01 par common
AMERICAN MONITOR CORPORATION
No par common
ART'S WAY MANUFACTURING COMPANY, INC.
No par common
COMPAQ COMPUTER CORPORATION
9-¼% convertible subordinate debentures
CRESTEK, INC.
$.01 par common
DECISION SYSTEMS, INC.
$.25 par common
E–H INTERNATIONAL, INC.
No par common
FRASER REALTY GROUP, INC.
No par common
GENETIC ENGINEERING, INC.
$.01 par common
GEORESOURCES, INC.
$.01 par common
GERBER SYSTEMS TECHNOLOGY, INC.
$.02 par common
GREAT SOUTHWEST INDUSTRIES CORP.
$.10 par common
HCW, INC.
$.10 par common
HALE SYSTEMS, INC.
No par common
HELIONETICS, INC.
Warrants (expire 11–30–87)
HOUSTON OIL FIELDS COMPANY
$.10 par common
ITEL CORPORATION
Warrants (expire 09–15–89)
KING INTERNATIONAL CORPORATION
$1.00 par common
MAGNETICS INTERNATIONAL, INC.
No par common
MATHEMATICAL APPLICATIONS GROUP, INC.
$.05 par common
NATIONAL CITY CORPORATION
Series A, no par convertible preferred
NATURE'S SUNSHINE PRODUCTS, INC.
$.002 par common
NEW AMERICA FUND, INC.
$1.00 par common
NICKLOS OIL & GAS COMPANY
$.05 par common
OCM LIQUIDATING CORPORATION
$.20 par common
1 POTATO 2, INC.
$.01 par common
OXOCO, INC.
$.10 par common
$1.00 par cumulative convertible preferred
PENINSULA FEDERAL SAVINGS & LOAN ASSOCIATION (Florida)
$1.00 par common
PERSONAL COMPUTER PRODUCTS, INC.
$.01 par common
PHARMAKINETICS LABORATORIES, INC.
$.001 par common
Warrants (expire 10–28–87)
ROOSEVELT NATIONAL INVESTMENT COMPANY
Class A, $1.00 par common
SAGE–ALLEN & CO., INC.
$.10 par common
SCAN OPTICS, INC.
Warrants (expire 02–12–86)
TECHTRAN INDUSTRIES INC.
$.01 par common
TESDATA SYSTEMS CORPORATION
$.01 par common
TEXON ENERGY CORPORATION
$.20 par common
TIME ENERGY SYSTEMS, INC.
$.01 par common
ZENITH NATIONAL INSURANCE COMPANY
Warrants (expire 10–15–88)

Stocks Removed for Listing on a National Securities Exchange or Being Involved in an Acquisition

AFG INDUSTRIES, INC.
$1.00 par common
ALPINE GROUP, INC.
$.10 par common
ANDERSON 2000, INC.
$.25 par common
AUDIO/VIDEO AFFILIATES, INC.
$.01 par common
AVIATION GROUP, INC., THE
$.10 par common
CANNON GROUP, INCORPORATED, THE
$.01 par common
CARDIS CORPORATION
$.75 par common
CARLSBERG CORPORATION
$.25 par common
CITIZENS AND SOUTHERN CORPORATION, THE (South Carolina)
$2.50 par common
8¾% convertible subordinate debentures
COMMONWEALTH NATIONAL FINANCIAL CORPORATION (Harrisburg)
$5.00 par common
COMMUNICATIONS INDUSTRIES, INC.
$.50 par common
COMPUTRAC, INC.

$.10 par common
DOMINION MORTGAGE & REALTY TRUST
$.10 par shares of beneficial interest
DONOVAN COMPANIES, INC.
Class A, $1.00 par common
EDGCOMB STEEL OF NEW ENGLAND, INC.
$2.50 par common
EMPIRE AIRLINES, INC.
$.40 par common
ENDEVCO, INC.
$.10 par common
FIRST CONNECTICUT BANCORP, INC.
$10.00 par common
FRANKLIN BANCORP
$3.50 par common
GENETIC SYSTEMS CORPORATION
$.01 par common
HERITAGE ENTERTAINMENT, INC.
$.01 par common
HOME FEDERAL SAVINGS & LOAN ASSOCIATION (Arizona)
$.01 par common
HYBRITECH INCORPORATED
No par common
IPC COMMUNICATIONS, INC.
Class A, $.01 par common
IVB FINANCIAL CORPORATION
$5.00 par common
INTERCONTINENTAL DYNAMICS CORPORATION
$.10 par common
KAPPA NETWORKS, INC.
No par common
LANDMARK SAVINGS ASSOCIATION (Pennsylvania)
$1.00 par common
LEXIDATA CORPORATION
$.01 par common
MTV NETWORKS, INC.
$.01 par common
MERRILL BANKSHARES COMPANY
$2.00 par common
PRICE COMMUNICATIONS CORPORATION
$.01 par common
PROVIDENT INSTITUTION FOR SAVINGS
$1.00 par common
SOUTHERN BANCORPORATION, INC.
$2.50 par common
SUBURBAN BANCORP
$5.00 par common
TELEPICTURES CORPORATION
$.01 par common
UNITED BANK, S.S.B.
No par common
VAIL ASSOCIATES, INC.
No par common
VAN DUSEN AIR, INC.
$1.00 par common
WESTERN STATES LIFE INSURANCE COMPANY
$1.00 par common
WOOD BROS. HOMES, INC.
$.01 par common
ZENITH LABORATORIES, INC.
$.09 par common
ZETA LABORATORIES, INC.
No par common

By order of the Board of Governors of the Federal Reserve System acting by its Director of the Division of Banking Supervision and Regulation pursuant to delegated authority (12 CFR 265.2(c)(18)), April 28, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-9361 Filed 4-25-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85-AWA-4]

Establishment of Airport Radar Service Areas

Correction

In FR Doc. 86-5115 beginning on page 8284 in the issue of Monday, March 10, 1986, make the following correction:

On page 8290, in the second column, eighth line, "charge" should read "change".

BILLING CODE 1505-01-M

14 CFR Part 71

[Airspace Docket No. 85-AWA-5]

Establishment of Airport Radar Service Areas

Correction

In FR Doc. 86-7686 beginning on page 11886 in the issue of Monday, April 7, 1986, make the following corrections:

1. On page 11888, in the second column, second paragraph, sixth line, "of" should read "for".

2. On page 11890, in the first column, first full paragraph, second line, "designators" should read "designations".

BILLING CODE 1505-01-M

14 CFR Part 71

[Airspace Docket No. 85-AWA-50]

Alteration of VOR Federal Airway V-532; Kansas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the description of Federal Airway V-532 by extending that airway from Salina, KS, direct to Lincoln, NE. Pilots routinely request direct routing between Salina and Lincoln. This expedites traffic, aids flight planning, and saves fuel by eliminating the current dogleg via Pawnee City, NE.

EFFECTIVE DATE: 0901 G.m.t., July 3, 1986.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426-8626.

SUPPLEMENTARY INFORMATION:

History

On January 30, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of VOR Federal Airway V-532 by extending the airway from Salina, KS, direct to Lincoln, NE, (51 FR 3796). Pilots routinely request direct routing between Salina and Lincoln. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations alters the description of VOR Federal Airway V-532 by extending that airway from Salina, KS, direct to to Lincoln, NE. The Minneapolis Air Route Traffic Control Center has received numerous requests for direct routing from Lincoln to Salina. In order to assist users, the FAA has designated VOR Federal Airway V-532 as a direct route between Salina and Lincoln. This action saves fuel, reduces controller workload and aids flight planning.

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

traffic procedures and air navigation, it is certified that this rule will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal Airways.

Adoption of the Amendment

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

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

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

2. Section 71.123 is amended as follows:

V–532 [Amended]

By removing the words "to Salina." and by substituting the words "Salina; to Lincoln, NE."

Issued in Washington, D.C., on April 21, 1986.

James Burns, Jr.,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–9353 Filed 4–25–86; 8:45 am]

BILLING CODE 4910–13–M

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14 CFR Part 71

[Airspace Docket No. 85–ANM–33]

Alteration of VOR Federal Airway V–491 and Establishment of V–589; Wyoming

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters Federal Airway V–491 by renumbering the segment between Medicine Bow and Casper, WY, to V–589. The current description of V–491 creates some confusion because it is segmented by ending at Casper, WY, and does not begin again until Rapid City, SD. This action eliminates that confusion and simplifies flight planning through the area.

EFFECTIVE DATE: 0901 G.m.t., July 3, 1986.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426–8783.

SUPPLEMENTARY INFORMATION:

History

On February 27, 1986, the FAA proposed to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter the description of V–491 by renumbering the segment between Medicine Bow and Casper, WY, to V–589 (51 FR 6918). The current description creates confusion because the airway is segmented. Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Except for editorial changes, this amendment is the same as that proposed in the notice. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

The Rule

This amendment to Part 71 of the Federal Aviation Regulations amends VOR Federal Airway V–491 by renumbering the segment between Medicine Bow and Casper, WY, to V–589. V–491 begins at Medicine Bow and ends at Casper, WY. Then, V–491 does not begin again until Rapid City, SD. This action eliminates the confusion when referencing V–491 because it is segmented and simplifies flight planning through the area.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal Airways.

Adoption of the Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, 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 11.69.

2. Section 71.123 is amended as follows:

V–491 [Amended]

By removing the words "From Medicine Bow, WY; INT Medicine Bow 336° and Casper 216° radials; to Casper, WY."

V–589 [New]

From Medicine Bow, WY, via INT Medicine Bow 336° and Casper, WY, 216° radials; to Casper.

Issued in Washington, D.C., on April 21, 1986.

James Burns, Jr.,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–9352 Filed 4–25–86; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 282

[Docket No. RM 79–14]

Natural Gas Policy Act; Incremental Pricing Acquisition Cost Thresholds

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order Prescribing Incremental Pricing Thresholds.

SUMMARY: The Director of the Office of Pipeline and Producer Regulation is issuing the incremental pricing acquisition cost thresholds prescribed by Title II of the National Gas Policy Act and 18 CFR 282.304. The Act requires the Commission to compute and publish the threshold prices before the beginning of each month for which the figures apply. Any cost of natural gas above the applicable threshold is considered to be an incremental gas cost subject to incremental pricing surcharging.

EFFECTIVE DATE: May 1, 1986.

FOR FURTHER INFORMATION CONTACT: Raymond A. Beirne, Federal Energy Regulatory Commission, 825 N. Capitol Street, NE., Washington, DC 20426, (202) 357–8500

Order of the Director, OPPR

Issued: April 23, 1986.

Section 203 of the NGPA requires that the Commission compute and make available incremental pricing acquisition cost threshold prices prescribed in Title II before the beginning of any month for which such figures apply.

Pursuant to that mandate and pursuant to § 375.307(1) of the Commission's regulations, delegating the publication of such prices to the Director of the Office of Pipeline and Producer Regulation, the incremental pricing acquisition cost threshold prices for the month of May 1986 are issued by the publication of a price table for the month. The incremental pricing acquisition cost threshold prices for months prior to those reflected on the table are found in § 282.304.

The incremental pricing threshold for May, 1986 reflect a two-month lag adjustment described in the notice of the March 1, 1986 thresholds.

List of Subjects in 18 CFR Part 282

Natural gas.

Raymond A. Beirne,

Acting Director, Office of Pipeline and Producer Regulation.

TABLE I.—INCREMENTAL PRICING ACQUISITION COST THRESHOLD PRICES

[Calendar year 1985]

	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.
Incremental pricing threshold	$2.373	$2.378	$2.383	$2.388	$2.399	$2.410	$2.421	$2.427	$2.433	$2.439	$2.446	$2.453
NGPA section 102 threshold	3.869	3.890	3.911	3.932	3.962	3.992	4.022	4.045	4.068	4.091	4.116	4.141
NGPA section 109 threshold	2.452	2.457	2.462	2.467	2.478	2.489	2.500	2.506	2.512	2.518	2.525	2.532
130 pct. of No. 2 fuel oil in New York City threshold	7.170	7.310	7.090	6.920	7.210	7.120	7.400	7.000	6.520	6.630	6.940	7.140

[Calendar year 1986]

	Jan.	Feb.	Mar.	Apr.	May							
Incremental pricing threshold	$2.460	$2.467	$2.474	$2.481	$2.487							
NGPA section 102 threshold	4.166	4.191	4.216	4.241	4.264							
NGPA section 109 threshold	2.539	2.546	2.553	2.460	2.566							
130 pct. of No. 2 fuel oil in New York City threshold	7.370	7.930	5.040	5.290	4.680							

[FR Doc. 86-9456 Filed 4-25-86; 8:45 am]

BILLING CODE 6717-01-M

DEPARTMENT OF THE TREASURY

Customs Service

19 CFR Part 10

[T.D. 86-91]

Withdrawal of Customs Regulations Amendments Relating to Cancellation of Temporary Importation Bonds

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of withdrawal.

SUMMARY: This documents withdraws amendments to the Customs Regulations which would have eliminated the requirement that Customs officers examine merchandise imported temporarily under bond or under an A.T.A. carnet, before exportation, and supervise the exportation process in order to have the temporary importation bond or carnet canceled. Proof of exportation would have been verified by documentary evidence ordinarily submitted to Customs.

It has now been determined that while these amendments would have eased Customs workload and been of some benefit to importers, the changes could have compromised enforcement efforts.

DATE: Withdrawal effective April 28, 1986.

FOR FURTHER INFORMATION CONTACT: Arnold Sarasky, Office of Inspection and Control, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8648).

SUPPLEMENTARY INFORMATION:

Background

Under the provisions of Schedule 8, Part 5, Subpart C, Tariff Schedules of the United States (19 U.S.C. 1202), certain classes of articles, when not imported for sale or sale on approval, may be admitted to the U.S. without the payment of duty by furnishing Customs with a bond providing for exportation of the articles under Customs supervision. The Customs Regulations governing these temporary importations under bond are found in § 10.31 *et seq.* (19 CFR 10.31 *et seq.*) These regulations, as well as those in Part 114, Customs Regulations (19 CFR Part 114), also govern importations made under an A.T.A. carnet, which is an international customs document which may be used for the temporary duty-free importation of certain articles into a country in lieu of the usual customs documents required. The carnet serves as a guarantee for the payment of duties which may become due on articles temporarily imported and not exported.

Pursuant to § 10.38(a), Customs Regulations (19 CFR 10.38(a)), an "Application for Exportation of Articles Under Special Customs Bond", Customs Form 3495, must be filed with the district director a sufficient length of time in advance of the date on which articles entered under a temporary importation bond or carnet are to be exported. This requirement permits Customs to examine and identify the articles if circumstances warrant examination. Customs is required to supervise the exportation process.

Section 10.39, Customs Regulations (19 CFR 10.39), sets forth the procedures for cancellation of bonds.

Because of increased demands for Customs Service and decreased staffing, it was believed that the requirements of supervision and examination were unrealistic and not necessary. Accordingly, by a document published in the **Federal Register** as T.D. 85-40 on March 12, 1985 (50 FR 9797), §§ 10.38 and 10.39 were amended to eliminate the requirement that Customs officers examine articles imported temporarily under bond or an A.T.A. carnet, before exportation, and supervise the

exportation process in order to have the bond or carnet canceled. The amendments provided that documentary evidence ordinarily submitted to Customs, which shows that the articles were exported, would be considered adequate proof of exportation.

As explained in T.D. 85–40, the procedure for allowing the submission of documentary evidence as proof of exportation was already in effect in Customs field offices by virtue of notification given the field offices on April 3, 1981. Shortly thereafter, by T.D. 81–124, published in the Customs Bulletin on May 20, 1981, the public was informed that the requirements of §§ 10.38 and 10.39, Customs Regulations, were being suspended at the importer's option of presenting documentary proof of exportation. T.D. 81–124 was not published in the **Federal Register.**

T.D. 85–40 provided that the amendments to §§ 10.38 and 10.39 were to become effective on April 11, 1985. However, because of concern that the changes could have compromised enforcement efforts, by notice published in the **Federal Register** as T.D. 85–66 on April 10, 1985 (50 FR 14093), the effective date of the amendments was delayed indefinitely.

After consideration of comments received from our field offices in regard to this change and further review of this matter, it has been determined advisable to withdraw T.D. 85–40 and the proposal published in the **Federal Register** on September 9, 1983 (48 FR 40738). It has also been decided to rescind T.D. 81–124 inasmuch as there is now no basis for permitting the procedures allowed by this rule.

This existing §§ 10.38 and 10.39, Customs Regulations, therefore, will remain in effect. This, the Customs Form 3495 must be filed with the district director and Customs will retain the option of examining the merchandise imported temporarily under bond or carnet, before exportation, and supervising its exportation.

Drafting Information

The principal author of this document was Susan Terranova, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

Dated: April 21, 1986.

Alfred R. De Angelus,

Acting Commissioner of Customs.

[FR Doc. 86–9428 Filed 4–25–86; 8:45 am]

BILLING CODE 4820–02–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 178

[Docket No. 83F–0116]

Indirect Food Additives: Adjuvants, Production Aids and Sanitizers; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting the final rule that amended the food additive regulations to provide for additional safe uses of tetrakis[methylene(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)] methane as an antioxidant and/or stabilizer in various food-contact applications. This document corrects a numbering error in the list of limitations.

FOR FURTHER INFORMATION CONTACT: Agnes Black, Chief, Regulations Editorial Staff (HFC–222), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2994.

SUPPLEMENTARY INFORMATION: In FR Doc. 85–13138 appearing in the issue of June 3, 1985, in the third column on page 23296, amendment "2." is corrected to read: "2. In § 178.2010(b) by adding new entries 12 through 20 to the list of limitations for 'Tetrakis-[methylene(3,5-di-*tert*-butyl-4-hydroxyhydrocinnamate)] methane' to read as follows:"

Dated: April 15, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–9363 Filed 4–25–86; 8:45 am]

BILLING CODE 4160–01–M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Parts 2640 and 2648

Redetermination of Withdrawal Liability Upon Mass Withdrawal

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule correction.

SUMMARY: This document corrects the final rule on the redetermination of withdrawal liability upon a mass withdrawal and the accompanying definitions that appeared in the **Federal Register** of Tuesday, March 25, 1986 at 51 FR 10314. This action is needed to correct typographical errors and to add the citations for other regulations referred to in this rule and in the definitions applicable to this rule.

FOR FURTHER INFORMATION CONTACT: Ellan H. Spring, Corporate Policy and Regulations Department (35100), 2020 K St., NW., Washington, D.C. 20006, 202–956–5051 (202–956–5059 for TTY and TDD). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The following corrections are made in FR Doc. 86–6119, appearing at page 10314 in the issue of March 25, 1986:

1. On page 10317, column 3, the definition of "(u)nfunded vested benefits" in § 2640.7 is corrected by deleting "multiemployer" preceding "valuation regulation" and inserting in its place "mass withdrawal" and by deleting the period at the end and adding in its place "(29 CFR Part 2676)."

2. On page 10317, column 3, the heading for Part 2648 is corrected by adding "REDETERMINATION OF" immediately before "WITHDRAWAL LIABILITY".

3. On page 10318, column 3, § 2648.3(c) is corrected by removing "very" in the 13th line and replacing it with "every", and § 2648.3(c)(3) is corrected by inserting "not" immediately after "(t)he plan sponsor has".

4. On page 10319, column 1, § 2648.5 is corrected by changing the reference to "section 4209(c)(1)(A)(ii)" to "section 4219(c)(1)(A)(ii)".

5. On page 10321, column 3, § 2648.8(g)(6)(i) is corrected by deleting "multiemployer" preceding "valuation regulation" and inserting in its place "mass withdrawal" and by deleting the semicolon and adding in its place "(29 CFR Part 2676);".

6. On page 10322, column 1, § 2648.9(g) is corrected by changing the reference to "§ 2648.7(g)(1)–(g)(3)" to "§ 2648.8(g)(1)–(g)(3)".

Issued in Washington, D.C. this 21st day of April, 1986.

Kathleen P. Utgoff,

Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 86–9393 Filed 4–25–86; 8:45 am]

BILLING CODE 7708–01–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 210, 212, and 218

Information Collection; Solid Minerals

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: This final rule describes the information collection necessary to start up and operate the MMS's new Auditing and Financial System for solid minerals. The information to be collected is required from lessees, lease operators and payors to provide comprehensive sales and royalty data on coal and other solid minerals produced from leased Federal and Indian lands. The data is used to document payments, to maintain royalty accounts, and for audits.

EFFECTIVE DATE: June 20, 1985. See discussion of effective date in the Supplementary Information section.

FOR FURTHER INFORMATION CONTACT: Dennis Whitcomb, Telephone: (303) 231–3432, (FTS) 326–3432.

SUPPLEMENTARY INFORMATION: The principal authors of this final rulemaking are Mr. Geary Keeton and Mr. Billie Clark of the Minerals Management Service, Lakewood, Colorado.

I. Background

The Department of the Interior (DOI) is charged with the responsibility for the collection, analysis and distribution of royalty payments on minerals produced from leased Federal and Indian lands. The Royalty Management Program is administered by the Department's Minerals Management Service (MMS).

To fulfill its responsibilities, the MMS is using two comprehensive integrated accounting systems, the Auditing and Financial System (AFS) and the Production Accounting and Auditing System (PAAS).

The AFS is a revenue accounting system which monitors royalties and related information reported by the lessees or operators of record who are required to pay rentals and royalties. The PAAS is a production accounting system which monitors minerals production and disposition from the source to the point of royalty determination. These systems are designed to implement the 1982 recommendation of the Commission on Fiscal Accountability of the Nation's Energy Resources (Linowes Commission), and depart substantially from the previous Royalty Accounting System (RAS) they are replacing. In addition to providing the controls and capabilities of modern accounting systems, these new systems embody the "modified Internal Revenue Service (IRS) concept" of accepting royalty and sales information as correct subject to audit. The two systems operate independently, but at the same time information from AFS is compared with information from PAAS to assure that minerals produced on Federal and Indian lands are properly accounted for and that appropriate royalties on those minerals are paid.

In concert with the MMS Royalty Management responsibilities, the Bureau of Land Management (BLM) is responsible for the verification of production upon which royalties are payable. This rule does not revise the BLM production verification responsibility.

In response to the Linowes Commission report, Congress enacted the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 *et seq.*). The Act requires the Secretary of the Interior to ". . . establish a comprehensive inspection, collection and fiscal and production accounting and auditing system to provide the capability to accurately determine oil and gas royalties, interest, fines, penalties, fees, deposits, and other payments owed, and to collect and account for such amounts in a timely manner" (30 U.S.C. 1711(a)). For solid minerals, the Act requires the Secretary to "study the question of the adequacy of royalty management for coal, uranium and other energy and nonenergy minerals . . ." (30 U.S.C. 1752(a)). Such a study was undertaken and a conclusion was reached that in order to comply with the intent of Congress to provide adequate controls to accurately determine royalties and other amounts due, the AFS and PAAS systems should be extended to cover solid minerals royalty management in addition to oil and gas. An examination of existing laws regarding solid minerals royalty management concluded that new legislation is not required to extend PAAS and AFS to cover solid minerals. MMS already has adequate authority under the mineral leasing laws to obtain from lessees the information necessary to determine and account for royalty payments.

This rulemaking, therefore, serves to implement the recommendation of the solid minerals royalty management study by placing solid minerals under the AFS. A separate rulemaking would also place solid minerals under PAAS after the publication of the PAAS regulations. (See 51 FR 8168, March 7, 1986.)

Under the AFS, payors are required to report oil and gas royalty data on Form MMS–2014 and payor information on Form MMS–4025. Under the AFS, solid mineral payors would be required to submit data on Form MMS–4014 and Form MMS–4030. These two forms replace several forms previously required for the RAS. The forms replaced include forms 9–373A for coal, 9–368 for phosphate, 9–128a through 9–128d for sodium and potassium, and 9–1146 for silica sands.

This rule requires payors to submit a Report of Sales and Royalty Remittance for Solid Minerals (Form MMS–4014) with every payment. This report includes specific information on the royalties due and being paid. The MMS will use the sales and royalty data on form MMS–4014 to identify the payor and the lease subaccounts, to maintain the lease accounts on a monthly or quarterly basis as appropriate, to reconcile or audit the accounts, to distribute payments to States and Indians, and to correlate lump sum payments with the appropriate subaccount charge entries.

At the time of conversion to AFS from RAS, payors also will be required to complete a separate Solid Minerals Payor Information Form (Form MMS–4030) for each Federal or Indian lease on which rent, production or minimum royalties are paid. This form provides specific information on who pays rent, minimum royalties, advance royalties, and production royalties; it identifies revenue sources and selling arrangements for the lease, and provides necessary information to assure that AFS covers all interests in the lease for all products. The MMS will use this information to establish a static, automated data base that reduces the amount of information payors must provide routinely. The MMS also will use the information to assign a unique Accounting Identification Number (AID) to each royalty source within the lease. The MMS will then send confirmation letters to the payors to provide the AID numbers which are needed to complete the Report on Sales and Royalty Remittance for Solid Minerals (Form MMS–4014). The information which would be required by the form corresponds with the payors' own sales and enables the payors to simply transfer figures from their own record to Form MMS–4014. A new Form MMS–4030 will be required to be submitted only when there is a change in the information previously submitted.

This rulemaking will amend 30 CFR Part 210 by revising § 210.10 of Subpart A and by adding §§ 210.200, 210.201, 210.202 and 210.203 to Subpart E. The new Subpart E Solid Minerals, General, replaces the existing Subpart E and Subpart F. Also, this rulemaking will amend 30 CFR Part 212 to apply to solid mineral leases the records maintenance requirements now applicable to oil and gas leases. Section 218.56 of 30 CFR Part 218, Subpart B will be redesignated § 218.40 of Subpart A and amended by this rulemaking. This action is being

taken so that assessments for late or incorrect reports and failure to report may be applied to both fluid and solid mineral AFS reporting.

MMS is already in the process of implementing the AFS and phasing out the RAS. In the proposed rule, we specifically proposed that the effective date of this rule would be retroactive to the date the proposed rule was published in the Federal Register, June 20, 1985, 50 FR 25585. It is important to the accounting requirement of solid minerals royalties and for a smoother and a more equitable transition from RAS to AFS that the Form MMS–4014 and Form MMS–4030 be used without delay. In fact, reporters already are using the forms. MMS, therefore, has determined that there is good cause, in accordance with 5 U.S.C. 553, to make this rule effective June 20, 1985.

II. Summary of Rules Adopted

The following sections summarize the most significant provisions of the regulations being adopted. The rules being adopted are essentially the same as the proposed rules. The amendments to 30 CFR Part 212 were proposed as amendments to Part 210. While the final rule places the proposed revision in a different part, the language and effect of the proposal is unchanged. The provisions are being placed in Part 212 because that part currently contains the identical requirement for oil and gas leases. Because of the similarity of the proposed and final rule, the discussion in this preamble for the proposed rules applies to the final rules. Where changes are being made to the final rules, they are discussed in this preamble except for minor clarifications.

Part 210

The provisions of 30 CFR Part 210 establish the reporting requirements for the Auditing and Financial System (AFS). This part indicates the types of reports which must be filed in order for the AFS to accomplish its stated goal to assure that minerals produced on Federal and Indian lands are properly accounted for and that appropriate royalties on those minerals are paid. This rulemaking will amend Part 210 to bring solid minerals reporting under the AFS.

Part 212

The provisions of Part 212 establish the records maintenance requirements for Federal and Indian leases. This final rule will subject solid mineral leases to the same requirements now imposed on oil and gas leases.

Part 218

The provisions of Part 218 establish certain reporting requirements and assessments for late reports, incorrect reports, and failure to report. This rule being adopted will amend Part 218 so that the assessment provisions may be applied to both fluid and solid mineral AFS reporting.

III. Comments Received on Proposed Rules

The proposed rulemaking published June 20, 1985, provided for a 30-day public comment period which ended July 22, 1985. [50 FR 25585]. Two comments were received. All comments received are addressed in this section, and the text of these regulations has been changed to reflect comments as appropriate.

One commentor referenced the Solid Minerals Payor Handbook which provides detailed reporting instructions to supplement this rulemaking. The commentor stated that reporting by selling arrangement would not benefit MMS in its royalty verification efforts. Also, the commentor felt that reporting retroactive price adjustments by month is time consuming and error prone. MMS requires all payors to report by selling arrangement. It is a data element used to distinguish royalty information on a lease reported by the same payor. The selling arrangement is necessary to verify that the appropriate royalty is paid. In regard to retroactive price adjustments by month, we believe it is necessary to have detail information by month to verify proper payment on a lease and to insure corrections are made to the appropriate payment.

Regarding § 210.10 *Information Collection*, a commentor suggested that the table showing forms for MMS–4025 and MMS–2014 should state they are for reporting oil and gas information. MMS agrees with this suggestion and the information has been incorporated in the section.

IV. Procedural Matters

Executive Order 12291

The Department of the Interior has determined that this is not a major rule and does not require a regulatory analysis under Executive Order 12291.

The regulatory burden on industry due to the information collection requirements for Form MMS–4014 and Form MMS–4030 is estimated to be approximately $14,540. Therefore, a regulatory impact analysis is not required.

Regulatory Flexibility Act

Some portions of the approximately $14,540 cost burden to industry would fall on the small businesses that are among the potential respondents. Since the total cost to the public is quite small, and because the MMS provides special training and assistance to small organizations, there would be no significant economic effect on small entities. 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 §§ 210.10, 210.200, 210.201, 210.202 and 210.203 have been approved by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.* and assigned clearance number 1010–0064.

National Environmental Policy Act of 1969

The Department of Interior has determined that this final rulemaking does not constitute a major Federal action significantly affecting the quality of the human environment; therefore, preparation of an environmental impact statement is not required.

List of Subjects

30 CFR Part 210

Continental shelf, Geothermal energy, Government contracts, Mineral royalties, Oil and gas exploration, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 212

Coal, Government contracts, Mineral royalties, Oil and gas exploration, Public lands-mineral resources, Reporting and recordkeeping requirements.

30 CFR Part 218

Coal, Continental shelf, Electronic funds transfers, Geothermal energy, Government contracts, Indian-lands, Mineral royalties, Oil and gas exploration, Public lands-mineral resources.

Under the authority of the Secretary of the Interior contained in 30 U.S.C. 1751, 30 CFR Parts 210, 212, and 218 are amended as set forth below.

Dated: March 25, 1986.

James E. Cason,

Acting Assistant Secretary, Land and Minerals Management.

PART 210—[AMENDED]

30 CFR Part 210 is amended as follows:

1. The authority citation for Part 210 is revised to read as follows:

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 Mineral 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 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. § 411 (43 U.S.C. 1457), see also Attorney General'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 National Environmental Policy Act of 1969 (42 U.S.C. 4321 *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.*); the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 *et seq.*).

2. 30 CFR 210.10, is amended by adding Form MMS–4014 and Form MMS–4030, and deleting Form 9–361/361A and Form 9–614A, so that as revised the table reads as follows:

§ 210.10 Information collection.

* * * * *

Form No., Name, and Filing Date	OMB No.
MMS—4025—Oil and gas payor information form-due 30 days after issuance of a new lease or a change to an existing lease	1010-0033
MMS-2014—Report of sales and royalty remittance-oil and gas-due by the end of first month following production month for royalty payment and for rentals no later than anniversary date of the lease	1010-0022
MMS-4030—Solid minerals payor information form-due 30 days after issuance of a new lease or change to an existing account established by an earlier form	1010-0064
MMS-4014—Report of sales and royalty remittance-solid minerals-due by end of month following sales or production month (unless lease terms specify a different frequency for royalty payments) and for rentals no later than the date specified in the lease terms	1010-0064

* * * * *

3. Part 210 is further amended by revising the title of Subpart E, to read: "*Solid Minerals, General*", and by adding §§ 210.200, 210.201, 210.202, and 210.203 to read as follows:

PART 210—FORMS AND REPORTS

Subpart E—Solid Minerals, General

Sec.

210.200 Required recordkeeping.

210.201 Solid minerals payor information form.

210.202 Report of sales and royalty remittance-solid minerals.

210.203 Special forms and reports.

Subpart E—Solid Minerals, General

§ 210.200 Required recordkeeping.

Information required by the Minerals Management Service (MMS) shall be filed using the forms prescribed in this subpart, copies of which are available from MMS. Instructions on the completion of these forms are provided in the Payor Handbook—Solid Minerals, also available from MMS. Records and supporting data may be maintained in hardcopy, microfilm, microfiche, or other recorded media that is readily available and readable.

§ 210.201 Solid minerals payor information form.

A Solid Minerals Payor Information Form (Form MMS–4030) must be submitted to MMS for each Federal and Indian solid minerals lease on which royalties, rentals or minimum royalties are paid. This form does not change any requirement for a separate approval, if required, by the Department of the Interior. The Form MMS–4030 shall identify the payor of rent, minimum royalty, advance royalty and production royalty, and identify revenue sources and selling arrangements for all lease products. The completed form must be filed by each royalty payor no later than 30 days after MMS provides notice that the payor is converted to the Auditing and Financial System (AFS). After filing the initial form, a new Form MMS–4030 must be filed no later than 30 days after the occurrence of any of the following:

(a) Assignment of all or any part of the lease;

(b) Adoption of a new mining method;

(c) Production of a new product;

(d) A change in a selling arrangement;

(e) Change in royalty rate;

(f) Change of payor; or

(g) Abandonment of a lease.

§ 210.202 Report of sales and royalty remittance-solid minerals.

A completed Report of Sales and Royalty Reimttance—Solid Minerals (Form MMS–4014) must accompany all payments to MMS for rents (other than first year) and royalties for Federal and Indian solid minerals leases. On leases where payment is remitted directly to an Indian tribe or Bureau of Indian Affairs office, the payor also must send a completed form MMS–4014 to MMS for processing in AFS. The Form MMS–4014 shall identify the payor and the lease subaccounts, contain production, sales, and royalty data, and identify the time period applicable to the data. Completed forms are due at the end of the month following the production or sales period as applicable. Unless the lease terms specify a different royalty payment frequency, all reports and payments are due monthly. If the lease terms do specify a different frequency for payment, the reporting must coincide with the payment. The Form MMS–4014 for rental payments is due no later than the rental payment date specified in the lease terms.

§ 210.203 Special forms and reports.

The MMS may require submission of additional information on special forms or reports. When special forms or reports other than those referred to in this subpart are necessary, instructions for the filing of such forms or reports will be given by MMS. Requests for the submission of such forms will be made in conformity with the requirements of the Paperwork Reduction Act of 1980 and other applicable laws.

4. Part 210 is further amended by:

a. Removing Subpart F.

b. Redesignating Subparts G and H as Subparts F and G, respectively.

PART 212—[AMENDED]

30 CFR Part 212 is amended as follows:

1. The authority citation for Part 212 is revised to read as follows:

Authority: The Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C.181 *et seq.*); the Mineral Leasing Act for Acquired Lands, as amended (30 U.S.C. 351–359); the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1201 *et seq.*) the National Historic Preservation Act of 1966 as amended (16 U.S.C. 1201 *et seq.*) the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) the Act of March 3, 1909 as amended (25 U.S.C. 396); the Act of May 11, 1938, as amended (25 U.S.C. 396a-396q); The Act of February 28, 1891, as amended (25 U.S.C. 397); The Act of May 29, 1924 (25 U.S.C. 398); The Act of March 3, 1927, (25 U.S.C. 398a-398e); The Act of June 30, 1919, as amended (25 U.S.C. 399); RS. § 441 (43 U.S.C. 1457); The Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 471 *et seq.*) the National Environmental Policy Act of 1969, as amended; (42 U.S.C. 4321 *et seq.*); the Freedom of Information Act (5 U.S.C. 552); the Indian Mineral Development Act of 1982 (25 U.S.C. 2101 *et seq.*); the Federal Oil and

Gas Royalty Management act of 1982 (30 U.S.C. 1701 *et seq.*).

2. Section 212.200 (a) is added to read as follows:

§ 212.200 Maintenance of and access to records.

(a) All records pertaining to Federal and Indian solid minerals leases shall be maintained by a lessee, operator, revenue payor, or other person for 6 years after the records are generated unless the record holder is notified, in writing, that records must be maintained for a longer period. When an audit or investigation is underway, records shall be maintained until the record holder is released by written notice of the obligation to maintain records.

* * * * *

§212.200 [Amended]

3. Section 212.200 (b)(1) is amended by changing the word "coal" to "products".

4. Part 212 is further amended by:

(a) Revising the title of Subpart E to read *"Solid Minerals—General"*

(b) Removing Subpart F.

(c) Redesignating Subparts G and H as Subparts F and G, respectively.

PART 218—[AMENDED]

1. The authority citation for Part 218 is revised to read as follows:

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 Mineral 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 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 General'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 National Environmental Policy Act of 1969 (42 U.S.C. 4321 *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; the Geothermal Act of 1970 (30 U.S.C. 1001 *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.*); the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1701 *et seq.*).

2. Section 218.56 of Subpart B is redesignated as § 218.40 of Subpart A, General Provisions.

3. Paragraph (c) of newly designated § 218.40, is amended by adding, after "Form MMS–2014" the following statement, "or Form MMS–4014."

4. Paragraph (e) of newly designated § 218.40 is redesignated as paragraph (d).

5. Section 218.57 of Subpart B is redesignated as § 218.56.

6. Part 218 is further amended by:

(a) Revising the title of Subpart E to read *"Solid Minerals—General."*

(b) Removing Subpart F.

(c) Redesignating Subparts G and H as Subparts F and G, respectively.

[FR Doc. 86–9403 Filed 4–25–86; 8:45 am]

BILLING CODE 4310–MR–M

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 936

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

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

ACTION: Final rule.

SUMMARY: OSMRE is announcing the approval of a program amendment submitted by the State of Oklahoma as an amendment to the State's permanent regulatory program (hereinafter referred to as the Oklahoma program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendment establishes a program for blaster training, examination and certification.

Oklahoma submitted the proposed program amendment on August 8, 1985. OSMRE published a notice in the **Federal Register** on October 29, 1985, announcing receipt of the amendment and inviting public comment on the adequacy of the proposed amendment (50 FR 43724).

After providing opportunity for public comment and conducting a thorough review of the program amendment, the Director has determined that the amendment meets the requirements of SMCRA and the Federal regulations, and is approving it. The Federal rules at 30 CFR Part 936 codifying decisions concerning the Oklahoma program are being amended to implement this action.

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

EFFECTIVE DATE: April 28, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. James Moncrief, Director, Tulsa Field Office, Office of Surface Mining Reclamation and Enforcement, Room 2432, 333 West Fourth Street, Tulsa, Oklahoma 74103, Telephone: (918) 581–7923.

SUPPLEMENTARY INFORMATION:

I. Background

The Oklahoma program was conditionally approved by the Secretary of the Interior on January 19, 1981 (46 FR 4910). Information pertinent to the general background, revisions, modifications and amendments to the proposed permanent program submission as well as the Secretary's findings, the disposition of comments, and a detailed explanation of the conditions of approval of the Oklahoma program can be found in the January 19, 1981 **Federal Register** (46 FR 4910), in the April 2, 1982 **Federal Register** (47 FR 14152), in the May 4, 1983 **Federal Register** (48 FR 20050) and the August 28, 1984 **Federal Register** (49 FR 34000). Subsequent actions on conditions of approval and program amendments are identified at 30 CFR 936.11 and 936.15.

At the time of the Secretary's approval of the Oklahoma program, OSMRE had not yet promulgated Federal rules governing the training and certification of blasters. Therefore, the State was not required to include such requirements in its program.

On March 4, 1983, OSMRE issued final rules effective April 14, 1983, establishing the Federal standards for the training and certification of blasters at 30 CFR Part 850 (48 FR 9486). The Federal rules require each State to design and implement its own blaster certification program.

Under the Federal rules, each State must develop the method of training, examining, and certifying blasters which best meets local needs within the Federal regulatory framework. The Federal rules require training, field experience, a written examination, and specify certain other requirements.

The Federal rules 30 CFR 850.12 require the State regulatory authority to develop a program and submit it to OSMRE as a proposed program amendment within 12 months after the publication date of the Federal rules. The Federal rules at 30 CFR 816.61(c) further provide that no later than 12 months after the State's blaster certification program has been approved by OSMRE all blasting operations in the State shall be conducted under the direction of a certified blaster.

II. Submission of Amendment

On August 8, 1985, the State of Oklahoma submitted to OSMRE an amendment to its permanent regulatory program. The amendment submitted by the Oklahoma Department of Mines (ODM) consists of proposed provisions to implement a blaster training, examination and certification program as required by 30 CFR Part 850.

The October 29, 1985 **Federal Register** announced receipt of the proposed modifications by OSMRE as well as the public comment period. In that same notice, OSMRE announced that a public hearing would be held only if requested. No requests were received and no hearing was held.

On March 4, 1986, a representative from OSMRE met with representatives from the Oklahoma Miner Training Institute (OMTI) to review the State's blaster certification examination. The State also provided OSMRE with some clarifying material concerning its training course.

III. Director's Findings

The Director finds, in accordance with SMCRA and 30 CFR 732.17 and 732.15, that the program amendments submitted by Oklahoma on August 8, 1985, meets the requirements of SMCRA and 30 CFR Chapter VII as discussed below.

General

The Oklahoma submission provides that the Oklahoma Department of Mines (ODM) with assistance from the Oklahoma Miner Training Institute (OMTI) will administer the program for the training, examination and certification of all blasters. It sets standards and procedures for ODM and OMTI to administer the blaster certification program.

The Oklahoma regulations for blaster training, examination and certification are found at Part 850 of the Oklahoma regulations.

Section 850.5—Definitions

Section 850.5 of the Oklahoma regulations defines the term "blaster" in a manner similar to and no less effective than the Federal definition at 30 CFR 850.5.

Section 850.12—Responsibility

Section 850.12 of the Oklahoma regulations sets forth the areas of responsibility for both the Department of Mines and the Miner Training Institute in the administration of the blaster certification program. The ODM is responsible for promulgating rules governing the training, examination, certifications and enforement of the blaster certification. The OMTI is responsible for assisting the ODM in developing and adopting a program to examine and certify all persons directly responsible for the use of explosives. The Director finds these provisions to be no less effective than the Federal regulations at 30 CFR 850.12.

Section 850.13—Training

Section 850.13 of the Oklahoma regulations sets forth the training requirements for persons seeking to become certified blasters. The ODM will ensure that adequate courses are available to train individuals responsible for the use of explosives on surface coal mining operations. This section also identifies the subject areas to be addressed in the training of potential blasters. The Director finds these provisions to be no less effective than the Federal regulations at 30 CFR 850.13.

Section 850.14—Examination

Section 850.14 of the Oklahoma regulations requires both a written examination, administered by the OMTI, and practical field experience prior to certification. The written examination shall test an applicant's competence in and practical application of the topics set forth in section 850.13. The Director finds the State's provisions to be no less effective than the Federal regulations at 30 CFR 850.14.

Section 850.15—Certification

Section 850.15 of the Oklahoma regulations establishes the conditions of blaster certification and recertification. The certification will expire 2 years from the date of issuance. After the initial certification period, all blasters must successfully complete a recertification course administered by the OMTI to demonstrate their continued competency.

This section also addresses provisions concerning the protection and proper use of the blaster certificate by the blaster and suspension/revocation measures to be implemented by the ODM when the blaster violates such provisions. The Director finds that the State's provisions to be no less effective than the Federal regulations at 30 CFR 850.15.

IV. Public Comments

Of the Federal agencies invited to comment on the proposed amendment, responses were received from the Bureau of Mines, U.S. Environmental Protection Agency and the U.S. Fish and Wildlife Service. No substantive comments were received.

The disclosure of Federal agency comments is made pursuant to section 503(b)(1) of SMCRA, 30 U.S.C. 1253(b)(1) and 30 CFR 732.17(h)(10)(i).

V. Director's Decision

The Director, based on the above findings, is approving the August 8, 1985 amendment to the Oklahoma program. The Director is amending Part 936 of 30 CFR Chapter VII to reflect approval of the above State program modification.

VI. Procedural Requirements

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1291(d), no environmental impact statement need be prepared on this rulemaking.

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

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

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

List of Subjects in 30 CFR Part 936

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

Dated: April 21, 1986.

James W. Workman,

Office of Surface Mining Reclamation and Enforcement, Deputy Director, Operations and Technical Services.

PART 936—OKLAHOMA

30 CFR Part 936 is amended as follows:

1. The authority citation for Part 936 continues to read as follows:

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

§ 936.15 [Amended]

2. 30 CFR 936.15 is amended by adding a new paragraph (h) to read as follows:

* * * * *

(h) The following amendment, as submitted to OSMRE on August 8, 1985, is approved effective April 28, 1986: Modifications to Part 850 of the Rules and Regulations of the Oklahoma Department of Mines to establish a program for blaster training, examination and certification.

§ 936.16 [Amended]

3. 30 CFR 936.16 is amended by removing and reserving the section.

[FR Doc. 86–9394 Filed 4–25–86; 8:45 am]

BILLING CODE 4310–05–M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 165

[COTP Memphis, TN Reg. 86–04]

Safety Zone Regulations; Arkansas River, From Mile 314.0 to Mile 316.0

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a safety zone from mile 314.0 to mile 316.0 on the McClellan-Kerr Arkansas River System. The zone is needed to protect marine traffic from a safety hazard associated with restricted navigation due to shoaling within the channel. Entry into this zone is prohibited unless authorized by the captain of the port.

EFFECTIVE DATE: This regulation becomes effective on 15 April 1986. It terminates on 15 May 1986.

FOR FURTHER INFORMATION CONTACT: Lieutenant D. G. Atkinson, Coast Guard Marine Safety Office Memphis, TN at (901) 521–3941.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to respond to potential hazards to the vessels involved.

Drafting Information

The drafter of this regulation is Lieutenant D.G. ATKINSON, project officer for the captain of the port.

Discussion of Regulation

The circumstances requiring this regulation resulted from the shoaling of the Arkansas River mile 314.0 to 316.0.

This regulation is issued pursuant to 33 U.S.C. 1225 and 1231 as set out in the authority citation for all of Part 165.

List of Subjects in 33 CFR Part 165

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

PART 165—[AMENDED]

Regulation

In consideration of the foregoing, Subpart C of Part 165 of Title 33, Code of Federal Regulations, is amended as follows: 1. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5.

2. A new § 165.T02010 is added to read as follows:

§ 165.T02010 Safety Zone: Arkansas River, from mile 314. to mile 316.0.

(a) *Location.* The following area is a safety zone: McClellan-Kerr Arkansas River System between miles 314.0 and 316.0.

(b) *Effective date.* This regulation becomes effective on 15 April 1986. It terminates on 15 May 1986.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into this area is prohibited. (2) Tows are authorized to transit this area when they meet the following restrictions:

(i) Tows shall contact lockmaster of lock 14 on channel 16 VHF/FM prior to entering this area for entry or passing instructions.

(ii) Tows transitting this zone shall adhere to directions of lockmaster of lock 14 pertaining to tow size and configuration.

Dated: April 14, 1986.

R.J. O'Pezio,

Captain of the Port.

[FR Doc. 86–9433 Filed 4–25–86; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[A-2-FRL-2968-2]

National Emission Standards for Hazardous Air Pollutants and Standards of Performance for New Stationary Sources Delegation of Authority to the State of New Jersey

AGENCY: Environmental Protection Agency.

ACTION: Final rule; Delegation of Authority.

SUMMARY: This notice announces the delegation of authority by the Environmental Protection Agency (EPA) to the State of New Jersey to implement and enforce additional source categories of the Standards of Performance for New Stationary Sources (NSPS) (40 CFR Part 60) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) (40 CFR Part 61) along with revisions and amendments to the NSPS and NESHAPS. This delegation was requested by the New Jersey Department of Environmental Protection (NJDEP). NSPS and NESHAPS are air pollution control requirements set under the Clean Air Act. This action informs all affected sources of the need to submit to the State, in addition to the EPA, all the information required pursuant to the delegated subparts. NSPS are applicable to certain categories of new air pollution sources. NESHAPS are applicable to certain categories of both new and existing sources.

EFFECTIVE DATE: This action is effective on April 28, 1986. These actions were applicable on June 24, 1985 and November 29, 1985.

FOR FURTHER INFORMATION CONTACT: Francis W. Giaccone, Chief, Air Compliance Branch, Air & Waste Management Division, EPA Region II Office, 26 Federal Plaza, New York, New York 10278, (212) 264–9627.

SUPPLEMENTARY INFORMATION: Sections 111(c) and 112(d) of the Clean Air Act directs the Administrator of the Environmental Protection Agency (EPA) to delegate EPA's authority to implement and enforce Standards of Performance for New Stationary Sources (NSPS) and National Emission Standards for Hazardous Air Pollutants (NESHAPS) to any state which has submitted adequate procedures. Nevertheless, the Administrator still retains concurrent authority to enforce the standards following delegation of authority to a state.

On April 30, 1985 EPA notified the NJDEP of two newly promulgated NSPS along with the revisions and amendments to existing NSPS and NESHAPS promulgated between June 30, 1984 and December 1984. NJDEP accepted the two NSPS, and revisions and amendments to existing NSPS and NESHAPS in a letter dated June 13, 1985 from the Commissioner of the NJDEP to the EPA Regional Administrator, Region II. On November 21, 1985 the Commissioner of the NJDEP wrote to the EPA Regional Administrator to accept delegation of one additional NSPS and two NESHAPS. The following provides a complete listing of NSPS and NESHAPS delegated to the NJDEP. The new categories now being delegated by today's action are identified with an asterisk (*). All revisions and amendments to the existing NSPS and NESHAPS promulgated between June 30, 1984 and December 1984 are included here by reference.

NSPS Delegation (40 CFR Part 60)

D Fossil-Fuel Fired Steam Generators for Which Construction Commenced After August 17, 1971 (Steam Generators and Lignite Fired Steam Generators)
Da Electric Utility Steam Generating Units for Which Construction Commenced After September 18, 1978
E Incinerators
F Portland Cement Plants
G Nitric Acid Plants
H Sulfuric Acid Plants
I Asphalt Concrete Plants
J Petroleum Refineries—(All Categories)
K Storage Vessels for Petroleum Liquids Constructed After June 11, 1973, and prior to May 19, 1978
Ka Storage Vessels for Petroleum Liquids Constructed After May 18, 1978
L Secondary Lead Smelters
M Secondary Brass and Bronze Ingot Production Plants
N Iron and Steel Plants
O Sewage Treatment Plants
P Primary Copper Smelters
Q Primary Zinc Smelters
R Primary Lead Smelters
S Primary Aluminum Reduction Plants
T Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants
U Phosphate Fertilizer Industry: Superphosphoric Acid Plants
V Phosphate Fertilizer Industry: Diammonium Phosphate Plants
W Phosphate Fertilizer Industry: Triple Superphosphate Plants
X Phosphate Fertilizer Industry: Granular Triple Superphosphate
Y Coal Preparation Plants
Z Ferroalloy Production Facilities
AA Steel Plants: Electric Arc Furnaces
*AAa Electric Arc Furnaces and Argon—Oxygen Decarburization Vessels in Steel Plants
BB Kraft Pulp Mills
CC Glass Manufacturing Plants
D Grain Elevators
EE Surface Coating of Metal Furniture
GG Stationary Gas Turbines
HH Lime Plants
KK Lead Acid Battery Manufacturing Plants
LL Metallic Mineral Processing Plants
MM Automobile and Light-Duty Truck Surface Coating Operations
NN Phosphate Rock Plants
PP Ammonium Sulfate Manufacturing Plants
QQ Graphic Art Industry: Publication Rotogravure Printing
RR Pressure Sensitive Tape and Label Surface Coating Operations
SS Industrial Surface Coating: Large Appliances
T Metal Coil Surface Coating
UU Asphalt Processing and Asphalt Roofing Manufacture
VV Equipment Leaks of Volatile Organic Compounds in Synthetic Organic Chemical Manufacturing Industry
WW Beverage Can Surface Coating Industry
XX Bulk Gasoline Terminals
FFF Flexible Vinyl and Urethane Coating and Printing
*GGG Equipment Leaks of VOC in Petroleum Refineries
HHH Synthetic Fiber Production Facilities
*JJJ Petroleum Dry Cleaners

NESHAPS Delegation (40 CFR Part 61)

C National Emission Standard for Beryllium
D National Emission Standard for Beryllium Rocket Motor Firing
E National Emission Standard for Mercury
F National Emission Standard for Vinyl Chloride
*J National Emission Standard for Equipment Leaks (Fugitive Emission Sources) of Benzene
M National Emission Standard for Asbestos (excluding Demolition and Renovation)
*V National Emission Standard for Equipment Leaks (Fugitive Emission Sources)

EPA's Findings

EPA's determination that the delegation be approved is based on the Agency's review of the New Jersey Air Pollution Control Act, N.J.S.A. 26:2C; the State Public Records Act, N.J.S.A. 47:1A–1; and Title 7, Chapters 27 and 27B of the New Jersey Administrative Code. Based on that review, EPA determined that such delegation is, therefore, appropriate and so notified the Commissioner of the NJDEP, in a letter dated September 14, 1984. NJDEP subsequently accepted delegation of the additional categories in letters dated June 13, 1985 and November 21, 1985. This delegation of additional NSPS and NESHAPS is based on the conditions delineated in EPA's letter of February 19, 1985 to the Commissioner. Copies of all correspondence and EPA's delegation letter are available for public inspection in the Office of the Air Compliance Branch at the Environmental Protection Agency, Region II Office, 26 Federal Plaza, New York, New York 10278.

Consequences of EPA's Action

Effective June 24, 1985 and November 29, 1985, all correspondence, reports and notifications required by the delegated NSPS and NESHAPS should be submitted to the Office of the New Jersey Department of Environmental Protection, Enforcement Element, Division of Environmental Quality, CN–027, Trenton, New Jersey 08625.

The Office of Management and Budget has exempted this action from the requirements of section 3 of Executive Order 12991.

This Notice is issued under the authority of sections 111 and 112 of the Clean Air Act, as amended (42 U.S.C. 7411).

List of Subjects in 40 CFR Part 60

Air pollution control, Reporting and recordkeeping requirements, Incorporation by reference, and Intergovernmental relations.

Dated: March 28, 1986.

Christopher J. Daggett,

Regional Administrator.

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Title 40, Chapter I, Subchapter C, Part 60, Code of Federal Regulations is amended as follows:

Subpart A—General Provisions

1. The authority citation for Part 60 continues to read as follows:

Authority: 42 U.S.C. 7401–7642.

2. § 60.4 paragraph (b)(FF) is revised to read as follows:

§ 60.4 Address.

* * * * *

(b) * * *

* * * * * *

(FF) State of New Jersey: New Jersey Department of Environmental Protection, Division of Environmental Quality, Enforcement Element, John Fitch Plaza, CN–027, Trenton, New Jersey 08625.

(*1*) The following table lists the specific source and pollutant categories that have been delegated to the states in Region II. The (X) symbol is used to indicate each category that has been delegated.

DELEGATION STATUS OF NEW SOURCE PERFORMANCE STANDARDS FOR REGION II

Subpart		State			
		New Jersey	New York	Puerto Rico	Virgin Islands
D	Fossil-Fuel Fired Steam Generator for Which Construction Commenced After August 17, 1971 (Steam Generators and Lignite Fired Steam Generators).	X	X	X	X
Da	Electric Utility Steam Generating Units for Which Construction Commenced After September 18, 1978	X		X	
E	Incinerators	X	X	X	X
F	Portland Cement Plants	X	X	X	X
G	Nitric Acid Plants	X	X	X	X
H	Sulfuric Acid Plants	X	X	X	X
I	Asphalt Concrete Plants	X	X	X	X
J	Petroleum Refineries—(All Categories)	X	X	X	X
K	Storage Vessels for Petroleum Liquids Constructed After June 11, 1973, and prior to May 19, 1978	X	X	X	X
Ks	Storage Vessels for Petroleum Liquids Constructed After May 18, 1978	X	X	X	
L	Secondary Lead Smelters	X	X	X	X
M	Secondary Brass and Bronze Ingot Production Plants	X	X	X	X
N	Iron and Steel Plants	X	X	X	X
O	Sewage Treatment Plants	X	X	X	X
P	Primary Copper Smelters	X	X	X	X
Q	Primary Zinc Smelters	X	X	X	X
R	Primary Lead Smelters	X	X	X	X
S	Primary Aluminum Reduction Plants	X	X	X	X
T	Phosphate Fertilizer Industry: Wet Process Phosphoric Acid Plants	X	X	X	X
U	Phosphate Fertilizer Industry: Superphosphoric Acid Plants	X	X	X	X
V	Phosphate Fertilizer Industry: Diammonium Phosphate Plants	X	X	X	X
W	Phosphate Fertilizer Industry: Triple Superphosphate Plants	X	X	X	X
X	Phosphate Fertilizer Industry: Granular Triple Superphosphate	X	X	X	X
Y	Coal Preparation Plants	X	X	X	X
Z	Ferroalloy Production Facilities	X	X	X	X
AA	Steel Plants: Electric Arc Furnaces	X	X	X	X
AAa	Electric Arc Furnaces and Argon—Oxygen Decarburization Vessels in Steel Plants	X		X	
BB	Kraft Pulp Mills	X	X	X	
CC	Glass Manufacturing Plants	X	X	X	
DD	Grain Elevators	X	X	X	
EE	Surface Coating of Metal Furniture	X	X	X	
GG	Stationary Gas Turbines	X	X	X	
HH	Lime Plants	X	X	X	
KK	Lead Acid Battery Manufacturing Plants	X	X		
LL	Metallic Mineral Processing Plants	X			
MM	Automobile and Light-Duty Truck Surface Coating Operations	X	X		
NN	Phosphate Rock Plants	X	X		
PP	Ammonium Sulfate Manufacturing Plants	X	X	X	
QQ	Graphic Art Industry Publication Rotogravure Printing	X	X	X	
RR	Pressure Sensitive Tape and Label Surface Coating Operations	X	X	X	
SS	Industrial Surface Coating: Large Appliances	X	X	X	
TT	Metal Coil Surface Coating	X	X	X	
UU	Asphalt Processing and Asphalt Roofing Manufacture	X	X	X	
VV	Equipment Leaks of Volatile Organic Compounds in Synethic Organic Chemical Manufacturing Industry	X	DX		
WW	Beverage Can Surface Coating Industry	X	X	X	
XX	Bulk Gasoline Terminals	X	X	X	
FFF	Flexible Vinyl and Urethane Coating and Printing	X		X	
GGG	Equipment Leaks of VOC in Petroleum Refineries	X		X	
HHH	Synthetic Fiber Production Facilities	X		X	
JJJ	Petroleum Dry Cleaners	X		X	

* * * * *

[FR Doc. 86-9434 Filed 4-25-86; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 799

[OPTS-42033B; FRL-2983-8]

Cresols; Testing Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is issuing a final rule establishing testing requirements under section 4(a) of the Toxic Substances Control Act (TSCA) for manufacturers and processors of cresols. Cresols is a chemical category consisting of three cresol isomers; *ortho*-cresol (CAS No. 95-48-7), *meta*-cresol (CAS No. 108-39-4), and *para*-cresol (CAS No. 106-44-5). The testing requirements include (1) mutagenic effects studies (including tests for chromosomal aberrations, gene mutations, and cellular transformations) on specified cresol isomers, (2) a developmental toxicity study (teratogenicity) with each cresol isomer, and (3) a two-generation reproductive effects study with each cresol isomer.

DATES: In accordance with 40 CFR 23.5 (50 FR 7271; February 21, 1985), this rule shall be promulgated for purposes of judicial review at 1 p.m. eastern ["daylight" or "standard" as appropriate] time on May 12, 1986. This rule shall become effective on June 11, 1986.

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

SUPPLEMENTARY INFORMATION: In the Federal Register of July 11, 1983 (48 FR 31812), EPA issued a proposed rule for cresols under section 4(a) of TSCA to require testing of cresols for subchronic toxicity, mutagenicity, carcinogenicity, developmental toxicity (teratogenicity), reproductive effects, neurotoxicity, and skin sensitization. Public comments on the proposed rule have been received and reviewed. EPA is now promulgating a final test rule requiring that manufacturers and processors of cresols test these chemicals for mutagenic effects, developmental toxicity, and reproductive effects. In addition, in its Initial Report (42 FR 55026; October 12, 1977), the Interagency Testing Committee recommended that the cresols be tested not only for health effects, but also for environmental effects. However, EPA has decided not to require environmental effects testing because available information allows

EPA to reasonably predict that exposure of aquatic organisms to cresols should not cause chronic effects. Further, EPA is finalizing only a portion of the testing which was initially proposed. Based on the results of studies conducted in accordance with this rule, a second rule requiring chronic testing of the cresols may be issued later.

I. Introduction

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

Under section 4(a)(1) of TSCA, EPA must require testing of a chemical substance or mixture to develop health or environmental data if the Administrator finds that:

(A)(i) the manufacture, distribution in commerce, processing, use, or disposal of a chemical substance or mixture, or that any combination of such activities, may present an unreasonable risk of injury to health or the environment,

(ii) there are insufficient data and experience upon which the effects of such manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data; or

(B)(i) a chemical substance or mixture is or will be produced in substantial quantities, and (I) it enters or may reasonably be anticipated to enter the environment in substantial quantities or (II) there is or may be significant or substantial human exposure to such substance or mixture,

(ii) there are insufficient data and experience upon which the effects of the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on health or the environment can reasonably be determined or predicted, and

(iii) testing of such substance or mixture with respect to such effects is necessary to develop such data.

EPA uses a weight-of-evidence approach is making a section 4(a)(1)(A)(i) finding in which both exposure and toxicity information are considered to make the finding that the chemical may present an unreasonable risk. For the finding under section 4(a)(1)(B)(i), EPA considers only production, exposure, and release information to determine whether there is or may be substantial release. For the second finding under both sections 4(a)(1) (A) and (B), EPA examines toxicity and fate studies to determine whether existing information is adequate to reasonably determine or predict the effects of human exposure to, or environmental release of, the chemical. In making the third finding, that testing is necessary, EPA considers whether any ongoing testing will satisfy the information needs for the chemical and whether testing that the Agency might require would be capable of developing the necessary information.

For a more complete understanding of the statutory section 4 findings, see EPA's proposals on chloromethane and chlorinated benzenes (45 FR 48510; July 18, 1980) and dichloromethane, nitrobenzene, and 1,1,1-trichloroethane (46 FR 30300; June 5, 1981).

II. Background

A. Profile

Cresols ($CH_3C_6H_4OH$) is a chemical category of three isomers: *ortho*-cresol (CAS No. 95–48–7), *meta*-cresol, (CAS No. 108–39–4), and *para*-cresol (CAS No. 106–44–5). The cresols are available commercially as individual isomers and as isomer mixtures. They are also contained in cresylic acid, a mixture of cresols and other phenolic compounds. U.S. production of cresols and cresylic acid, or "cresylics" in 1984 was about 117.5 million pounds. Of this amount, 40.7 million pounds was *ortho*-cresol, and 76.8 million was all other cresols (Ref. 1). Imports of *ortho*-, *meta*-, *para*-, (*meta, para*)-cresol mixtures, and cresylic acid were 14.9 million pounds in 1984 (Ref. 2). Therefore, the total production and imports of cresols and cresylic acid in 1984 was about 132.4 millon pounds.

Cresols are used as wire enamel solvents, automotive cleaners, and organic intermediates in manufacturing phenolic resins and phosphate esters. Additional uses of either individual isomers or mixtures are as follows: in the production of several herbicides and disinfectants; as cleaning compounds, degreasers, and antioxidants; and in ore flotation. The level I Economic Impact Analysis, which accompanied the proposed cresols rule, contains a detailed description of uses and manufacturing processes.

B. ITC Recommendations

The Interagency Testing Committee (ITC) designated cresols for priority consideration in its Initial Report, published in the **Fedeal Register** on October 12, 1977 (42 FR 55026). The ITC recommended that the Agency require industry to test cresols for the following health effects: carcinogenicity, mutagenicity, teratogenicity, and other chronic effects. The ITC also recommended testing for environmental effects, specifically chronic effects in fish and other aquatic organisms.

The ITC's recommendations were based on the large volume of cresols produced in the United States. It was estimated in the ITC's report that the U.S. production of cresols in 1975 was about 90 million pounds. The ITC reported an estimated annual environmental release of approximately 45 million pounds. In addition, the ITC was concerned that the wide use of cresols as industrial solvents could lead to substantial occupational exposure. The ITC cited the National Institute for Occupational Safety and Health's (NIOSH) estimates that roughly 2 million workers are exposed to cresols. The ITC also was concerned that cresols are used in many consumer products and that these uses could result in a large consumer and general population exposure.

C. Proposed Rule

EPA issued a proposed rule, published in the **Federal Register** of July 11, 1983 (48 FR 31812), which would require that cresols be tested for subchronic toxicity, mutagenic effects including chromosomal aberrations, gene mutations, and cellular transformations, carcinogenicity, developmental toxicity, reproductive effects, neurotoxicity, and skin sensitization.

EPA based its proposed testing requirements on the authority of section 4(a)(1)(B) of TSCA. The Agency found that each of the three cresol isomers is manufactured, processed, and used in substantial quantities, and that these uses may result in substantial human exposure. Furthermore, EPA found that between 600,000 and 1.2 million people are exposed to cresols each year via manufacturing, processing, and/or use activities. Finally, EPA found that there was a lack of data from which to reasonably determine or predict the various effects for which testing was proposed and that testing was necessary to develop such data.

In addition, EPA found that there is evidence of potential adverse human health risks for mutagenic and carcinogenic effects resulting from the manufacture, processing, and use activities associated with cresols. However, the existing data which support this belief of potential risk for these effects were found to be inadequate to reasonably predict or determine the effects of these exposures to cresols. Therefore, in its proposed rule EPA determined that the testing of

cresols for mutagenicity and carcinogenicity can also be based upon section 4(a)(1)(A) of TSCA. EPA also found that it is necessary to develop such data.

In the proposed rule, EPA also presented its reasons for not proposing testing for environmental effects. While the release of cresols to the environment is high, the Agency has determined that adequate information exists which allows EPA to reasonably predict that exposure to cresols should not cause adverse chronic effects to aquatic species. The Agency made a preliminary judgment that no additional environmental effects testing is needed at this time and requested public comments from interested parties on this decision.

D. Studies Received or Intitiated After Proposed Rule

The proposed cresols test rule specified that *meta*- and *para*-cresol be tested in the sister chromatid exchange (SCE) assay to determine the potential for gene mutations. Testing of the *ortho*-cresol isomer was not required because of the availability of an adequately conducted SCE assay on that isomer. However, following publication of the proposed test rule, the Chemical Industry Institute of Toxicology conducted experiments to determine the genotoxic potential of *ortho*-, *meta*-, and *para*-cresol, both *in vitro* and *in vivo*, using the SCE assay as a measure of genotoxicity (Ref. 3).

The Agency has reviewed this study and has found it adequate to meet the needs of the Agency for this proposed testing requirement (Ref. 4). Therefore, the proposed requirement for *meta*- and *para*-cresol to be tested in an SCE assay is not included in this final test rule for cresols.

In addition, a major development in another EPA program has altered the makeup of the final cresols test rule.

The Resource Conservation and Recovery Act (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984 (HSWA), requires that appropriate treatment standards must be met prior to land disposal of hazardous wastes containing cited chemical substance (Ref. 5).

The effect of the 1984 amendments is to establish a statutory presumption against land disposal of hazardous wastes. The amendments further provide that statutory bans on land disposal will go into effect on specific dates unless EPA determines on a case-by-case basis that land disposal is protective of human health and the environment or, prior to land disposal, wastes have been treated to a level or by a method such that threats to human health or the environment are minimized.

In order to make such a determination, EPA is developing treatment standards for wastes, based on technology levels and screening levels for chemical constituents of wastes. Wastes will be prohibited from land disposal, unless the appropriate treatment standards have been observed. To develop these screening levels, EPA requires information on the toxicological effects and the environmental fate of the chemical substances contained in wastes subject to regulation under RCRA.

The chemicals involved have been placed on a prioritized schedule for consideration and analysis of the available data on each chemical. For the majority of substances subject to the HSWA, EPA found sufficient data on which to base standards. However, for some substances either insufficient information is available to establish these screening levels, or, while there may be sufficient information to establish such standards, confirmatory or supporting information is needed to verify any assumptions the Agency may have made in developing these standards.

Cresols are constituents of wastes for which treatment standards must be set by November 8, 1986. Following a review by the Agency, it was determined that insufficient reliable information was available for cresols. As a result either EPA must obtain usable data in order to set an appropriate toxicity reference dose (RfD), or certain wasts containing cresols would be banned as of November 8, 1986 from all land disposal.

The subchronic toxicity studies included in EPA's proposed test rule for cresols would provide the initial data needed to establish RfDs for the cresols. However, the Agency concluded that this rulemaking to require this testing (which has been proposed under the former two-phase test rule process) could not be completed in time to obtain data within the schedule imposed by the HSWA. Therefore, EPA has initiated subchronic toxicity studies for each of the three cresol isomers and OTS will not include such testing in the final cresols test rule.

The proposed cresols test also included requirements that neurotoxicity tests be performed in conjunction with the subchronic studies. The neurotoxicity testing also will be conducted by EPA because of the efficiency of performing such tests jointly with the subchronic studies. Therefore, EPA will conduct neuropathology studies on the individual cresol isomers and an expanded clinical observation of the test animals during the 90-day subchronic study.

In summary, the following tests in the proposed test rule for cresols have either been adequately peformed or are in the process of being performed, and they meet the needs of the Agency for these testing requirements and are not included in the final test rule for cresols: sister chromatid exchange assays on *meta*- and *para*-cresol; 90-day subchronic toxicity studies on *ortho*-, *meta*-, and *para*-cresol; and neuropathology on *ortho*., *metaa*-, and *para*-cresol.

Finally, the National Toxicology Program (NTP) is considering certain health effects testing of cresols. NTP is planning to conduct range-finding and subchronic studies and may initiate bioassays on one or more cresol isomers.

III. Response to Public Comments

The comments received by the Agency in response to the proposed rule for cresols were from the Cresols Task Force (CTF), Natural Resources Defense Council (NRDC), Chemical Manufacturers Association (CMA), Sherwin-Williams, Merichem, Ciba-Geigy, and the American Industrial Health Council (AIHC). The comments from the organizations mentioned above were received in October 1983. Since that time some of the affiliations of the commenters have changed. In May 1984, the CMA established a Cresols Program Panel to address EPA's Section 4 activities on cresols. The Panel consists of the major U.S. manufacturers and importers of cresols and is a refashioning of the CTF. In addition, Sherwin-Williams sold its *para*-cresol production facility to PMC Specialties Group, a subsidiary of PMC of Sun Valley, California (Ref. 6). For this document the commenters will continue to be referred to as the CMA, CTF, and Sherwin-Williams.

The most extensive comments received were those of the CTF. In general, the CTF's comments encompass most of the other significant comments received from other interested parties. Because the CTF submission includes the same subject areas covered by other commenters, EPA will direct the majority of its responses to the CTF submission.

The Agency did not receive any comments which in the Agency's judgment rebutted the substantial production and substantial human findings for cresols. The major issues

identified during the comment period are discussed below.

A. Comments on Exposure Issues

1. *Substantial production.* Several of the commenters stated that the cresols industry has seen a decline in manufacturing and sales, and that it is a mature chemical industry. However, none of the commenters volunteered any revised production estimates.

In the proposed test rule EPA estimated that the annual U.S. production volume was 169 million pounds, with another 17 million pounds imported into the United States each year. The most current EPA estimate is that in 1984 the production and imports of cresols and cresylic acid totalled approximately 132.4 million pounds (Ref. 6). The Agency believes that regardless of whether the total annual production and importation of cresols is 132.4 or 186 million pounds, these estimates still support a finding under section 4(a)(1)(B) of substantial production.

2. *Substantial human exposure.* The CTF, Sherwin-Williams, and Merichem commented that the Agency does not have a basis for the finding of substantial human exposure. They contend that EPA has overestimated the number of people who are exposed to cresols in the workplace and that EPA did not consider the following: whether or not the exposure to cresols is significant, the long history of cresol manufacture and use without any reports of chronic toxicity, the fact that cresols occur naturally in the human body, and that cresols do not occur in any consumer product.

EPA estimated in the proposed rule that between 687,000 and 1.2 million people are potentially exposed to cresols. Human exposure to cresols may occur in facilities which manufacture and process cresols and from the use of products which contain cresols. These exposure estimates made by EPA are intended to represent the upper (1.2 million people) and lower (687,000 people) bound estimates of the total number of persons exposed to cresols. The lower bound estimate was established using data provided by the CTF and Conoco. The upper bound estimate was based on data from the National Occupational Hazard Survey (NOHS) conducted in 1972–74.

The CTF commented that EPA's exposure estimates are inflated. The CTF presented a revised estimate of 126,000 people exposed. The Task Force conducted an analysis of the NOHS exposure estimate and concluded that the NOHS data support an upper-bound actual exposure of 126,000 people or 10 percent of the NOHS estimate (Ref. 7). The CTF also concluded that the NIOSH survey was inaccurate and based on production and use information which was out of date.

The CTF commented that EPA's estimate that 627,000 people are exposed to cresols from the use of cresols in cleaning compounds is also too high. As a result of this belief, the CTF commissioned an occupational survey on this use which, according to the CTF, shows that exposures from this use are very low. The survey was conducted for the CTF by the Johns Hopkins University School of Hygiene and Public Health. The Johns Hopkins report, on the basis of a survey of the Baltimore, Maryland, area estimates that nationwide there are approximately 148,000 mechanics exposed to cresol-containing cleaning compounds (Ref. 7).

The CTF also conducted an analysis of the NOHS estimates based on printouts of the underlying data obtained from NIOSH. According to the CTF's analysis of the data, the NOHS estimates of 1.2 million people exposed to cresols is overstated by a factor of at least 10. The Task Force analysis concentrated on the 14 percent of the NOHS estimate derived from 33,063 actual and tradename observations. The CTF criticized the accuracy of the NOHS numbers. It stated that a portion of the NOHS figures was based on products that may or may not contain cresols and some in which cresols are not used. As a result of its review of the NOHS survey, CTR concluded that the upper-bound limit of actual exposure is 126,000 people.

In addition, the occupational survey conducted by Johns Hopkins for the CTF only evaluates one user group, i.e., automobile mechanics exposed to cresol-containing cleaning compounds. In this survey, the estimates of workers exposed was 148,000. This estimate for only one user group is higher than the CTF's estimate for the total exposure based on CTF's analysis of the 1972–1974 NOHS survey. It is reasonable to assume that if 148,00 workers are estimated to be exposed during one use practice, then a much larger number of people would be exposed if all of the other uses for cresols were considered collectively.

Furthermore, the industry comments pointed out that cresols are not found in any end-use consumer products, but only in industrial products. EPA is aware of this; however, the uses in the automobile industry and wire enamel market and the use of cresols in strippers, cleaners, and degreases are such that substantial numbers of people are potentially exposed at the workplace.

In 1978, Conoco Chemicals Co. estimated the number of workers potentially exposed to cresols in truck and automobile cleaning compounds (Ref. 8). Based on upperbound estimates of 1978 market penetration of cresols-based cleaners, Conoco estimated that 627,000 mechanics may be exposed to cresols in these products. This use involves using cresol-based cleaning compounds in a tank-dipping process used to clean large items, usually automobile carburetors. While this use is still very substantial and results in high occupational exposure, the cresols industry emphasizes that new techniques have been developed which have minimized the exposure during this particular use practice. A new dipping product called an immersion cleaner, manufactured by Safety Kleen Corp., now used in garages is essentially enclosed and results in limited exposure. This method contracts with the open tank dipping used in the past. The industry contends that this new process has roughly half of the market for cresol-based cleaning compounds.

However, even if Conoco's 1978 estimate were halved, the resulting exposure estimates would still be over 300,000 people potentially exposed during this use practice.

In conclusion, EPA agrees with the industry comments on the cresols proposed rule that the estimate of 600,000 to 1.2 million people exposed is overstated. However, if EPA accepts the industry-generated estimate of 126,000 people exposed during manufacturing and processing and the estimate of 300,000 people, which is half of Conoco's original 1978 estimate, approximately 126,000 to 300,000 individuals exposed to cresols in the workplace results. The Agency believes that this estimate still satisfactorily meets the exposure criteria needed to permit it to make a section 4(a)(1)(B) finding, i.e., the chemical is produced in substantial quantities which may result in substantial human exposure.

3. *Inadvertant exposure.* The CTF commented that cresols are found in the human intestine as a natural product of the metabolism of tyrosine, which is one of the amino acids present in the body's protein. It further contends that cresols are ubiquitous in the natural environment and that industrial releases of cresols are minor when compared to the estimated annual volume released by natural sources. The Task Force suggests that these factors undermine the validity of an exposure-based finding under TSCA section 4(a)(1)(B).

However, it is only *para*-cresol which naturally occurs in the human body. The

CTF also has ignored the relationship between cumulative multimedia exposure and threshold toxicity levels. Total exposure, intake, and subsequent uptake of a chemical must be considered from all sources. Total additive uptake must be analyzed in terms of dose/response relationships and threshold toxic levels for chronic and acute toxic effects. Natural occurrence does not negate the effect of higher anthropogenic or cumulative exposures eliciting toxic responses. Therefore, a risk assessment or an assessment for further testing must consider cumulative multimedia exposure. The Agency believes that any additional exposure to cresols may be cause for concern, presenting an additive effect, i.e., increased burden, on the body. An added loading of *para*-cresol may possibly present a cumulative exposure and therefore an unknown risk. The Agency has determined that this risk should be investigated.

4. *Levels of exposure.* The CTF, Merichem, and Sherwin-Williams all included comments in their submissions which concerned the levels of the cresols to which people are potentially exposed. All of the comments, in one way or another, stated that any exposures that may occur are so low that there is not cause for undue concern. The CTF states that "* * * 8-hour exposures of as high as 1 ppm are sustained only by a very few of the most highly exposed workers in cresols manufacturing facilities" (Ref. 7). However, it is also the workers who are exposed for long periods of time at low exposure levels with whom the Agency is concerned. Little information is known on the health risks associated with this type of exposure profile. Even though the industry commented that no chronic health problems have been noted among persons exposed to cresols in the past, there have been no studies, either clinical health or epidemiological, which prove or disprove this premise. Therefore, in order to reasonably determine or predict the risks to workers who are exposed to cresols for a few hours a day over several years, the Agency believes that chronic and other health effects information are needed.

B. Comments on Persons Subject to Testing

1. *Producers of synthetic cresols.* The Sherwin-Williams Co. commented that since it is reported to be the only domestic producer of *para*-cresol, used only in products where the *para*-cresol is consumed in the manufacturing process, it should not be subject to the final rule for cresols. It contends that the Agency cannot support a finding of substantial human exposure for *para*-cresol.

The Agency's finding of substantial occupational exposure to cresols is based on potential widespread exposures both to the individual isomers and to countless mixtures. Cresols are sold commercially in varying mixtures of the three isomers, two isomers, and single isomer, in combination with many other chemical components. Potential exposures in the workplace are to all three of the isomers as constituents of those mixtures, as well as to the pure isomers. *Para*-cresol is a component of those mixtures and hence, a component of the industrial products in which the cresol mixtures are used. It is on this basis that *para*-cresol manufacturers are subject to this rule.

Furthermore, it is the Agency's opinion that Sherwin-Williams manufactures *para*-cresol in substantial quantities and that the potential for widespread occupational exposure during the manufacturing, distribution, loading, shipping, sampling, processing, and/or disposal of *para*-cresol is high.

Therefore, the Agency does not agree with Sherwin-Williams and has determined that Sherwin-Williams is a manufacturer of cresols as defined under sections 3 and 4 of TSCA. The Agency has made no differentiation between different methods of cresols production.

2. *Processors of cresols.* The Ciba-Geigy Co. comments addressed the role of cresols processors in the conduct of and reimbursement for tests required in the final rule. Ciba-Geigy believes that all processors should be exempt from conducting tests and sharing costs. Further, it stated that if processors are to be included, then the processors should be divided into two groups, those who use cresols as raw material to form totally different chemical products and those "* * * who merely [mix] them and [pass] the resulting formulations on to a wider public" * * * "Ciba-Geigy recommends that processors who use cresols solely as raw materials to form new chemical products be exempt from the burden of testing and/or data reimbursement" (Ref. 9).

EPA does not agree that it should differentiate between types of processors in the section 4 test rule process. The definition of "process" in section 3(10) and the language of section 4(b)(3)(B) do not make a distinction such that the responsibilities of the two types of processors (as described by Ciba-Geigy) should differ in any way. Ciba-Geigy is a processor as defined under section of TSCA because it prepares cresols, after its manufacture, for distribution in commerce. However, under EPA's section 4 procedural rule (50 FR 20652) processors would be required to perform testing or be subject to reimbursement only if manufacturers fail to perform testing (See Units IVD and E).

C. Comments on the Economic Impact of the Cresols Test Rule

Several of the public comments submitted in response to the cresols proposed test rule addressed the adverse economic impact which the test rule would have on the cresols industry. The industry comments generally focused on a belief that EPA had underestimated the costs of testing and on an analysis of the price sensitivity of and competition within the cresol marketplace. They contended that the cresols industry is a mature chemical industry which has seen declining sales in recent years. In addition, they argued that EPA severely underestimated the real economic effects of the proposed test rule and that the testing costs on an annualized unit cost basis are not minor, as the Agency stated, but would impact heavily on the industry.

When the proposed cresols test rule was published (July 1983) the Agency's economic analysis was based on the best available information. The Agency attempted to factor in all of the variables which must be considered in conducting an economic assessment of one market of the vast chemical industry. As a result of both industry comments on the proposed rule and the Agency's independent acknowledgment that the economic variables within the cresols industry had changed, EPA conducted a supplemental economic analysis of the proposed cresol test rule program (Ref. 10).

This supplemental report factored in revised test costs and new economic data including more detailed and current information on the affected industry. The conclusions reached in the Agency's revised economic analysis indicate that the potential for adverse economic effects on the cresols-producing industry due to the estimated testing costs contained in the proposed rule was high. Therefore, the Agency is in general agreement with most of the comments about the economic impact of the proposed cresols test rule.

TSCA only requires that EPA acknowledge the existence of a potential economic impact [(TSCA sections 2 (b)(3) and (c), 4(B)(1)(C), and 24(a)(1))], not necessarily take any action because of it. However, the Agency believes that an alternative testing approach can mitigate the

adverse economic impact and also obtain the health effects data which the Agency has determined are necessary. This alternative approach is adopted in this final cresols test rule.

Cresols testing will be conducted in two tiers. At this time, selected mutagenicity tests, developmental toxicity studies, and reproductive effects studies will be finalized in this rule. At the conclusion of all of the testing required in the first test rule there will be an Agency decision point at which time a review of the collective data on cresols will occur. This collective data will include, but not be limited to, the tests finalized in this rule, as well as any health effects testing conducted by EPA and NTP.

At the same time, the Agency will publish in the **Federal Register**, notification that the testing required in the first cresol test rule has been completed and that the Agency has received all of the data. The **Federal Register** notice will announce the opening of a short public comment period during which time interested parties can review the data and submit comments as to what, if any, additional testing should be required for cresols. This review will determine the scope of any additional higher-tier testing and the chemical substance(s) which should be tested.

Following that decision, EPA may promulgate a second final test rule which could include 2-year oncogenicity bioassay(s) and upper-tier mutagenicity assay(s) on *ortho*-cresol, *meta*-cresol, and/or *para*-cresol. In addition, neurotoxicity testing may be included in the second final test rule for cresols.

As explained in unit II.D. of this document, EPA is conducting 90-day subchronic toxicity studies for each of the cresol isomers and has included in this testing expanded clinical observations of neurobehavioral characteristics and neuropathological examinations. Therefore, the remaining two neurotoxicity studies initially proposed for cresols, i.e., the functional observation battery and motor activity test, will not be conducted in the first final test rule.

However, if the results of the subchronic and neurotoxicity studies conducted by EPA indicate that the effect of cresols on neurobehavior and neuromotor function is a potential concern, then these two assays will be finalized as part of the second final rule for cresols. In the second final rule, if one is warranted, the neurotoxicity testing could be added to any oncogenicity bioassay as a satellite dose group.

Therefore, the upper-tier definitive health effects studies (oncogenicity and mutagenicity) and neurotoxicity studies (functional observation and motor activity) which have alredy been set forth in the proposed cresols rule (July 11, 1983; 48 FR 31812), will continue in a proposed status to be finalized at a later date should the Agency determine that a second final test rule is necessary to sufficiently characterize the health effects concerns of cresols.

EPA believes that this phased approach to the testing required in the proposed cresols test rule is warranted because it will reduce the possibility of adverse economic impact on the cresols industry resulting from the proposed cresols test rule. Further, and most importantly, the Agency believes that the health effects testing which was initially proposed in the cresols proposed rule will ultimately be fully addressed in this tiered test rule approach (See Unit V for Economic Impact of Final Rule).

D. Comments on Health Effects Testing

1. *Route of administration of test substance.* The proposed test rule required that inhalation be the route of administration of the test substance in the health effects studies (subchronic toxicity, oncogenicity, two-generation reproductive effects) for cresols. The CTF comments recommended that this be reconsidered by the Agency and that ingestion rather than inhalation be used. The cresols manufacturers contend that existing acute data, using oral, dermal, and inhalation routes, do not indicate that cresols induce any unique toxicity by the inhalation route. Further, CTF contends that existing data on cresols indicate that the target organs are systemic (CNS, liver, kidney) and that these organs are targets regardless of the route of administration of the test substance. It is the commenters' conjecture that EPA is, or should be, interested in systemic effects from long-term, low level exposures, and that these effects will be picked up in the animal testing regardless of the route of exposure.

The Agency has considered the CTF comments. While the Agency does not necessarily agree with all of the scientific rationale given by the CTF for altering the route of administration, EPA will allow the change from inhalation to ingestion. EPA believes that the gavage subchronic study being performed by the Agency will give information which will enable the Agency to make the necessary risk evaluations for cresols. Therefore, the Agency agrees to change the route of administration from inhalation to ingestion for the developmental toxicity and reproduction and fertility effects studies.

2. *Test substance.* The CTF commented that the health effects testing should be performed on an equal mixture of the three cresol isomers, i.e., ⅓ *ortho*-cresol, ⅓ *meta-cresol, and* ⅓ *para*-cresol. The industry believes that exposures to workers are more likely to be from a trimeric mixture than from individual isomers. CTF states that the single isomer use of cresol is generally as feedstock in chemical manufacture. However, while these statements are probably the case during the manufacture of cresols, cresols are sold commercially as mixtures of three isomers in a myriad of varying concentrations, mixtures of two isomers, particularly *meta*- and *para*-cresol, as single isomers, and in the commercial product cresylic acid. The Agency believes that widespread exposures are to both individual isomers and countless mixtures. It is because of the production of such a variety of mixtures that the Agency decided to test each isomer separately. There is no "standard" mixture to which people are more predominantly exposed. In addition, the Agency believes that each of the isomers is produced in such substantial quantities that each warrants individual investigations. Finally, the Agency believes that the most useful data will be obtained by using the purest available form of the chemical being studied. Therefore, the Agency disagrees with the industry comments and has determined that the health effects testing will be conducted with specified individual cresol isomers.

3. *Finding of unreasonable risk.* The CTF comments that there is no basis for a finding of potential unreasonable risk under section 4(a)(1)(A) of TSCA for mutagenicity and carcinogenicity. It states that the Agency's finding is only based on questionable and/or flawed studies. Most of the mutagenicity studies in question were conducted for the cresols industry consortium and submitted as a part of their public comments in response to the ITC's initial testing recommendations for cresols (42 FR 55026; October 12, 1977).

The Agency has reviewed the tests and considers that the positive results seen in several of the short-term mutagenicity tests are valid and significant. In addition, the section 4(a)(1)(A) finding of "may present an unreasonable risk" for oncogenicity was based on evidence which suggests that the three cresol isomers have a capacity for promoting the appearance of skin tumors in mice.

However, as explained in unit III. C. of this preamble, the Agency is not requiring oncogenic testing for cresols at this time. However, a finding of potential unreasonable risk for mutagenic effects remains a valid basis for the mutagenicity testing required in this rule.

4. *Neurotoxicity testing.* The CTF commented on the neurotoxicity tests which were proposed in the cresols rule. While CTF apparently agreed with the need for some neurotoxicity testing, it questioned the choice of tests. In addition, it stated that a general screening procedure should be conducted before considering chronic low-level neurotoxicity testing. The most critical of the specific comments had to do with "weak basis" for requiring testing and the inappropriateness of neurotoxicity testing as standard operating procedure for these types of chemicals.

The Agency agrees with the CTF that neurotoxicity testing should begin with a screen, and that was the approach the Agency proposed in the test rule. The proposed testing is the neurotoxicity screening procedure. It is the Agency's general policy in implementing TSCA section 4 to require these three neurotoxicity tests, i.e., neuropathology, motor activity, and functional observation battery, in test rules based on a finding of substantial production and exposure.

However, because EPA is conducting a portion of the proposed neurotoxicity studies, EPA is not requiring that any neurotoxicity studies be performed in this final rule (see units II.D. and III.C. of this document). However, based on the results of the neurotoxicity evaluations conducted by EPA, the Agency may require that the functional observation battery and motor activity evaluations, which were proposed for cresols, be included in the second final test rule.

5. *Tiered mutagenicity scheme.* The CTF, CMA, AIHC, and NRDC submitted comments on the proposed mutagenicity testing requirements for cresols. Some of the issues covered were related to the choice of tests, the automatic triggers to higher level mutagenicity tests and oncogenicity testing, and mutagenicity as a regulatable endpoint. The Agency's response to a variety of public comments on this approach, the test sequences, and the assays (and triggers for oncogenicity testing) contained within them may be found in the final Phase I test rule for the C_9 aromatic hydrocarbon fraction (C_9) (50 FR 20662; May 17, 1985) and the final Phase I test rule for mesityl oxide (MO) (50 FR 51857; December 20, 1985).

A. *Automatic triggers for chronic oncogenicity bioassay.* As discussed in the final Phase I test rules for C_9 and MO, the Agency believes that the use of sequences of tiered tests for mutagenicity testing and the use of automatic triggers to require chronic oncogenicity bioassays based on the results of certain mutagenicity assays are consistent with both current scientific knowledge and the regulatory approach to chemical testing established under section 4 of TSCA. Existing data show a strong correlation between positive results in certain mutagenicity tests and positive results in animal chronic oncogenicity bioassays for a large number of substances tested in both types of systems. Thus, positive results in one or more of these mutagenicity assays provide a basis for concluding that the substance may be an oncogen and, in conjuction with evidence of both an active chemical structure and the potential for human exposure to the substance, that such exposure may present an unreasonable risk of oncogenicity. If all of these mutagenicity tests yield negative results, the likelihood of the specified chemical being oncogenic is small and the chronic bioassay will not be required. Conversely, if any one of these trigger tests is positive, potential oncogenicity of a chemical is suggested and a chronic bioassay is essential to confirm or deny that potential and provide a basis for judging what oncogenic risk exposure to the specific chemical may present.

However, in view of the potential adverse economic impact of the proposed cresols rule on the cresols-producing industry (see unit III. C. of this preamble), the Agency has altered its approach in the final cresols test rule. Because EPA is now using a two-tiered test rule, there are no longer automatic triggers to the oncogenicity bioassays or upper-tier mutagenicity assays, i.e., mouse specific locus assay and heritable translocation assay. These higher-tier, more definitive tests will not be addressed in this document. A second test rule may require 2-year bioassay(s) and upper-tier mutagenicity assay(s), as well as possible neurotoxicity testing.

b. *Mutagenicity as a regulatable endpoint.* While the industry commenters agreed that appropriate mutagenicity assays can be used for assessing carcinogenic potential, they objected to the use of the more elaborate tests to assess mutagenic risk as a separate endpoint. They objected to EPA's apparent use of rigid inflexible testing schemes in favor of a tiered approach to permit informed scientific judgment.

The sequence of tiered tests employed by EPA in assessing the mutagenic potential of chemical substances, which are required in this final Phase I test rule for specific cresol isomers, were previously described in the proposed test rule issued by the Agency for cresols (48 FR 31812; July 11, 1983), and are more completely described in the final Phase I test rule for C_9 and MO. Although these general test sequences are usually employed, the Agency ultimately specifies the required mutagenicity test for each specific chemical substance on a case-by-case basis. In the case of the cresol isomers, many of the isomers have already been tested in several mutagenicity assays. The cresols mutagenicity scheme has been designed so that only selected isomers will be tested in specific test systems.

The Agency feels that there is a consensus in the scientific community on the need for identifying mammalian mutagens. While it is recognized that there is, as yet, no generally accepted single methodology for estimating human risk from mutagenic agents, it is the Agency's view that appropriate methodologies for testing do exist and are valid. Therefore, the Agency concludes that it is appropriate at this time to obtain mutagenicity data on cresols to determine whether additional upper-tier mutagenicity assays, i.e., mouse specific locus and/or heritable translocations, are necessary for one or more of the three cresol isomers. Any additional mutagenicity testing will be required in a subsequent final rule for cresols.

Even though the upper-tier mutagenicity tests and the 2-year bioassays will not be automatically triggered as a result of first and second tiers of mutagenicity testing, the first and second tiers will remain as proposed, except for the deletion of the SCE assays as discussed in Unit II.D. of this preamble. EPA believes the use of automatic triggers between these first tiers is suitable. It should be noted that this does not exclude the public from requesting modification in the test program. Provisions are available under section 21 of TSCA for the public to petition EPA at any time to amend a rule under section 4.

6. *Other health effects testing issues.* In the cresols proposed rule, the Agency included testing each cresol isomer for skin sensitization. The purpose of this evaluation is to identify the effects, and hence possible hazard, to a population repeatedly exposed to a test substance.

After reflecting upon the inclusion of this test in the proposed rule, EPA has

decided to delete the skin sensitization study from the final cresols rule. The Agency has determined that because of the highly corrosive nature of cresols to the skin, little additional useful information would be derived from conducting a sensitization study with cresols.

E. Comments on Environmental Effects Testing

The ITC recommended that cresols be tested for chronic effects in fish and other aquatic organisms. The Agency believes that there is substantial release and exposure to the environment by cresols. However, the Agency made a preliminary decision in the proposed test rule and concluded that there is sufficient information to reasonably predict that cresols do not pose a chronic aquatic toxicity hazard. This information includes ambient concentrations predicted through computer models, a large quantity of acute toxicity data, monitoring data, and known bioconcentration, biodegradation, and persistence values. The Agency acknowledges that there is no existing chronic toxicity data for cresols, but believes that this combined information allows EPA to reasonably predict whether or not exposure of aquatic organisms to cresols should cause chronic effects.

However, EPA was aware that the information on which the Agency made its preliminary decisions is open to many different interpretations. For this reason, EPA specifically requested in the cresols rule that interested parties submit comments on this issue.

The Agency received comments from both NRDC and CTF. NRDC commented that enough consideration was not given "* * * to possible subtle or chronic ecological consequences of discharges during lapses of treatment or to discharges into other bodies of water." In addition, NRDC was concerned that "* * * cresols are acidic compounds and could affect the chemistry of sensitive locales when discharged in large quantities." Therefore, NRDC states that environmental effects testing should be initiated for cresols.

EPA, in response to NRDC's comments, re-reviewed all of the information from which it made the preliminary decision not to test cresols for environmental effects. The Agency believes that the environmental effects data and analyses which exist for cresols are adequate to permit the Agency to make an evaluation of any potential chronic effects which might result from exposure to cresols. The information on which the Agency bases its decision not to require environmental effects testing is extensive, and when properly analyzed and interpreted, can provide information on the potential of a chemical to cause chronic effects. Further, all of the available acute, monitoring, and modeling data, in conjunction with data on the transport and fate of the chemical in an aquatic habitat, provide an important segment of the scientific basis for assessing the risk resulting from the release of that chemical into the environment.

The CTF comments support the Agency's preliminary decision on the environmental effects testing. CTF contends that cresols degrade rapidly in the environment and that concentrations of cresols in the water, even under worst-case conditions, would not approach the levels that would pose a chronic aquatic toxicity hazard.

The Agency has reviewed both sets of comments and has found no basis to alter its initial environmental testing decision. Therefore, no additional environmental effects testing on cresols will be required at this time. The Agency believes that substantial information is available to the Agency to enable it to make an assessment of risk for cresols on aquatic organisms. In sections 4(a)(1)(A)(ii) and (B)(ii) of TSCA, the Agency must find that,

> there are insufficient data and experience upon which the effects to the manufacture, distribution in commerce, processing, use, or disposal of such substance or mixture or of any combination of such activities on * * * the environment can reasonably be determined or predicted.

EPA does not believe that it can make that finding for cresols for environmental effects testing at this time.

F. Comments on Protocol Submission and the Phased Test Rule Process

The NRDC submitted comments concerning the need for requiring validated protocols and recommended modification of the Agency's two-phase test rule process. These comments were considered and addressed in both the final Phase I test rule for the C_9 aromatic hydrocarbon fraction (50 FR 20662, 20666–20667; May 17, 1985) and the final rule on Test Rule Development and Exemption Procedures, published in the **Federal Register** of October 10, 1984 (49 FR 39774).

EPA shares NRDC's desire that test rules should be completed as rapidly as possible, and the Agency has decided to modify the test rule development process for cresols. Elsewhere in this issue of the **Federal Register**, EPA is proposing certain TSCA guidelines as the required test standards for cresols. The Agency is also proposing that the test data from each required study be submitted within certain time frames. By taking this action, EPA believes that testing will be initiated more expeditiously than would occur if the normal two-phase process were followed (see Unit IV.E., below).

IV. Final Test Rule for Cresols

A. Findings

EPA is basing the final testing requirements for cresols on the authority of section 4(a)(1)(B) of TSCA. EPA finds that each of the three cresol isomers is manufactured, processed, and used in substantial quantities that may result in substantial human exposure. Furthermore, EPA finds that there are insufficient data available to either reasonably determine or predict the result of this exposure in the areas of mutagenic, developmental toxicity, and reproductive effects. These findings are based on the following information:

1. There are substantial amounts of cresols produced in or imported into the United States each year. It is estimated that production and imports of cresols totalled 132.4 million pounds in 1984.

2. Estimates indicate that between 148,000 and 300,000 people are exposed to cresols each year via manufacturing, processing, and/or use activities.

3. EPA finds that there are insufficient data on all of these cited human health effects from which to reasonably determine or predict the result of exposure to cresols and that testing of cresols for these effects is necessary to develop such data.

4. EPA does not believe that the final rule will result in a loss to society of the benefits of cresols because the Agency's economic evaluation has shown that the economic impact of testing these substances will be minimal.

In addition, EPA has found that (a) there is evidence of potential unreasonable human health risks from mutagenic effects resulting from the manufacture, processing, and use activities associated with cresols, and that while there are existing data which support this belief with respect to these effects, (b) these existing data are inadequate to reasonably predict or determine the effects of these exposures to cresols, and (c) testing is necessary for these effects. Therefore, EPA believes that requiring testing of cresols for mutagenicity can also be based upon section 4(a)(1)(A) of TSCA.

B. Required Testing

EPA is requiring that each of the three cresol isomers, *ortho*-cresol, *meta*-cresol, and *para*-cresol, shall be tested

in the following health effects studies: (1) Mutagenic effects studies (including tests for chromosomal aberrations, gene mutations, and cellular transformations on specified cresol isomers), (2) developmental toxicity, and (3) two-generation reproductive effects studies.

C. Test Substance

EPA is requiring that *ortho*-cresol, *meta*-cresol, and *para*-cresol of at least 99 percent purity be used as the test substances because this grade is readily available and will best allow EPA to assess the hazards presented by the various cresol isomers.

D. Persons Required to Test

Section 4(b)(3)(B) specifies that the activities for which the Agency makes section 4(a) findings (manufacture, processing, distribution, use and/or disposal) determine who bears the responsibility for testing. Manufacturers are required to test if the findings are based on manufacturing ("manufacture" is defined in section 3(7) of TSCA to include "import"). Processors are required to test if the findings are based on processing. Both manufacturers and processors are required to test if the exposures occur during use, distribution, or disposal. Because EPA has found that the manufacturing, processing, use, and distribution in commerce of *ortho*-, *meta*-, and/or *para*-cresol give rise to potential substantial exposures, EPA is proposing that persons who manufacture or process, or who intend to manufacture or process, any of the cresol isomers at any time from the effective date of this test rule to the end of the reimbursement period be subject to the rule's requirements for that isomer. The end of the reimbursement period ordinarily will be 5 years after the submission of the last final report required under the test rule. As discussed in the Agency's test rule development and exemption procedures (40 CFR Part 790), EPA expects that manufacturers will conduct testing and that processors will ordinarily be exempted from testing.

Because TSCA contains provisions to avoid duplicative testing, not every person subject to this rule must individually conduct testing. Section 4(b)(3)(A) of TSCA provides that EPA may permit two or more manufacturers or processors who are subject to the rule to designate one such person or a qualified third person to conduct the tests and submit data on their behalf. Section 4(c) provides that any person required to test may apply to EPA for an exemption from that requirement.

E. Test Rule Development and Exemptions

Elsewhere in this issue of the **Federal Register**, the Agency is proposing that certain TSCA guidelines be utilized as test standards for the development of data under this rule for *ortho*-, *meta*-, and *para*-cresol. As discussed in that notice and in previous notices (50 FR 20652; May 17, 1985), EPA has reviewed the method for development of test rules and has decided that for most section 4 rulemakings, the Agency will utilize single-phase rulemaking. In light of this decision, EPA has reevaluated the process for developing test standards for section 4 rulemakings initiated under a two-phase process and has determined that for certain of these two-phase rules, TSCA test guidelines are generally available for promulgation as relevant test standards. EPA has decided that where TSCA test guidelines are available, the Agency in most cases will propose the relevant guidelines as the test standards for those rules.

EPA believes that, in line with its commitment to expedite the section 4 rulemaking process, it is appropriate to propose the applicable TSCA test guidelines as test standards at the same time as a Phase I final test rule is issued. With regard to the rulemaking for *ortho*-, *meta*-, and *para*-cresol, TSCA test guidelines are available for the testing requirements included in this Phase I final rule. Thus, in the accompanying notice the Agency is proposing these TSCA guidelines as test standards.

The public, including the manufacturers and processors subject to the Phase I rule, will have an opportunity to comment on the use of the TSCA test guidelines or to propose alternate test methods. The Agency will review the submitted comments and will modify the TSCA test guidelines, where appropriate, when the test standards are promulgated.

During the development of a test rule under the two-phase process, persons subject to the Phase I final rule are normally required to submit proposed study plans within 90 days after the effective date of the Phase I final rule (see 40 CFR 790.30(a)(2), published in the **Federal Register** of May 17, 1985 (50 FR 20658)). However, because EPA is proposing applicable TSCA test guidelines as the test standards for the studies required by this Phase I final rule, persons subject to the rule, i.e., manufacturers and processors of *ortho*-, *meta*-, and/or *para*-cresol, are not required to submit proposed study plans for the required testing. Persons subject to this rule, however, are still required to submit notices of intent to test or exemption applications in accordance with 40 CFR 790.25, published in the **Federal Register** of May 17, 1985 (50 FR 20657). For this rule, once the test standards are promulgated, persons who have notified EPA of their intent to test must submit study plans (which adhere to the promulgated test standards) no later than 30 days before the initiation of each required test.

Processors of *ortho*-, *meta*-, and/or *para*-cresol subject to this rule, unless they are also manufacturers, will not be required to submit letters of intent, exemption applications, or study plans (before testing is initiated) unless manufacturers fail to sponsor the required tests. The basis for this decision is that manufacturers are expected to pass an appropriate portion of the test costs on to processors through the pricing of products containing *ortho*-, *meta*-, and/or *para*-cresol.

EPA's final regulations for the issuance of exemptions from testing requirements are in 40 CFR Part 790. In accordance with those regulations, any manufacturer or processor subject to this Phase I test rule may submit an application to EPA for an exemption from conducting any or all of the tests required under this rule. If manufacturers perform all the required testing, processors will be granted exemptions automatically without having to file applications.

Because persons subject to this rule for cresols are not required to submit proposed study plans for approval, EPA will grant conditional exemptions under this rule following EPA's receipt of a letter of intent to conduct the required tests rather than after receipt and approvals of a study plan. Notice of EPA's adoption of the final test standards and deadlines will be announced in a final Phase II test rule.

F. Reporting Requirements

EPA is requiring that all data developed under this rule be reported in accordance with the EPA Good Laboratory Practice (GLP) standards pursuant to 40 CFR Part 792.

EPA is required by TSCA section 4(b)(1)(C) to specify the time period during which persons subject to a test rule must submit test data. The Agency is proposing these deadlines elsewhere in this issue of the **Federal Register**. These proposed data submission deadlines are open for public comment and may be modified, where appropriate, when the final Phase II test rule is promulgated.

TSCA section 12(b) requires that persons who export or intend to export

to a foreign country any *ortho-*, *meta-*, and/or *para*-cresol, subject to the testing requirements of this rule, notify EPA of such exportation or intent to export. While the results of required testing may not be available for some time, a notice to the foreign government about the export of such substances subject to test rules serves to alert it to the Agency's concern about the substances. It gives the government the opportunity to request such data that the Agency may currently possess plus whatever data may become available as a result of testing activities. Thus, upon the effective date of this rule, persons who export or intend to export *ortho-*, *meta-*, and/or *para*-cresol must submit notices to the Agency pursuant to TSCA section 12(b)(1) and 40 CFR Part 707. For additional information, see the **Federal Register** of November 19, 1984 (49 FR 45581).

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will announce the receipt within 15 days in the **Federal Register** as required by section 4(d). Test data received pursuant to this rule will be made available for public inspection by any person except in those cases where the Agency determines that confidential treatment must be accorded pursuant to section 14(b) of TSCA.

G. Enforcement Provisions

The Agency considers failure to comply with any aspect of a section 4 rule to be a violation of section 15 of TSCA. Section 15(1) of TSCA makes it unlawful for any person to fail or refuse to comply with any rule or order issued under section 4. Section 15(3) of TSCA makes it unlawful for any person to fail or refuse to: (1) Establish or maintain records or (2) submit reports, notices, or other records required by the Act or any regulations issued under TSCA.

Additionally, TSCA section 15(4) makes it unlawful for any person to fail or refuse to permit entry or inspection as required by section 11. Section 11 applies to any "establishment, facility, or other premises in which chemical substances or mixtures are manufactured, processed, stored, or held before or after their distribution in commerce * * *" The Agency considers a testing facility to be a place where the chemical is held or stored and, therefore, subject to inspection. Laboratory audits and/or inspections will be conducted periodically in accordance with procedures outlined in TSCA section 11 by designated representatives of the EPA for the purpose of determining compliance with the final rule for *ortho-*, *meta-*, and *para-cresol*. These inspections may be conducted for purposes which include verification that testing has begun, that schedules are being met, that reports accurately reflect the underlying raw data and interpretations and evaluations thereof, and that the studies are being conducted according to EPA GLP standards and the test standards established in the second phase of this rulemaking.

EPA's authority to inspect a testing facility also derives from section 4(b)(1) of TSCA, which directs EPA to promulgate standards for the development of test data. These standards are defined in section 3(12)(B) of TSCA to include those requirements necessary to assure that data developed under test rules are reliable and adequate, and such other requirements as are necessary to provide such assurance. The Agency maintains that laboratory inspections are necessary to provide this assurance.

Violators of TSCA are subject to criminal and civil liability. Persons who submit materially misleading or false information in connection with the requirement of any provision of this rule may be subject to penalties calculated as if they had never submitted their data. Under the penalty provisions of section 16 of TSCA, and person who violates section 15 could be subject to a civil penalty of up to $25,000 per day for each violation. Intentional violations could lead to the imposition of criminal penalties up to $25,000 for each day of violation and imprisonment for up to 1 year. Other remedies are available to EPA under sections 7 and 17 of TSCA, such as seeking an injunction to restrain violations of TSCA section 4.

Individuals as well as corporations could be subject to enforcement actions. Sections 15 and 16 of TSCA apply to "any person" who violates various provisions of TSCA. EPA may, at its discretion, proceed against individuals as well as companies themselves. In particular this includes individuals who report false information or who cause it to be reported. In addition, the submission of false, fictitious, or fraudulent statements is a violation under 18 U.S.C. 1001.

V. Economic Analysis of Final Test Rule

To assess the economic impact of this rule, EPA has prepared an economic analysis that evaluates the potential for significant economic impacts on the industry as a result of the required testing (Ref. 6). The economic analysis estimates the costs of conducting the required testing and evaluates the potential for significant adverse economic impact as a result of these test costs by examining four market characteristics of cresols: (1) Price sensitivity of demand, (2) industry cost characteristics, (3) industry structure, and (4) market expectations.

Total testing costs for the final rule for cresols are estimated to range from $764,095 to $1,050,230. This estimate includes the costs for both the required minimum series of tests as well as the conditional ones.

The estimated 1983 production volume for each of the three isomers is approximately 28, 26, and 49 million pounds for *para-*, *meta-*, and *ortho-*cresol, respectively. The costs of testing are first allocated to each isomer on the basis of production volume. The test costs for each isomer are then allocated to the commercial products containing the isomer based on percentage composition and total production of the commercial product. Based on this allocation method and the maximum costs of required and conditional testing, the annualized unit costs of testing range from a low of 0.08 cents per pound for cresylic acid, to a high of 0.34 cents per pound for *meta-* and *para*-cresol mixtures. Compared to the unit sales value for the commercial products, the unit test costs range from a low of 0.10 percent of price to a high of 0.42 percent of price.

Based on these costs and a consideration of the market characteristics of cresol products, the economic analysis indicates that the potential for significant economic impact is low. This conclusion is based on the following observations: (1) The estimated unit test costs are small and represent a relatively small percentage of product unit value (i.e., less than one percent of unit value in the worst case); (2) relatively stable, and in some cases moderate, growth is expected in most markets for cresols; and (3) demand in most of the markets does not appear to be very sensitive to small increases in price. For a complete discussion of the economic implications of this rule, see the economic analysis support document (Ref. 6).

VI. Availability of Test Facilities and Personnel

Section 4(b)(1) of TSCA requires EPA to consider "the reasonably foreseeable availability of the facilities and personnel needed to perform the testing required under the rule." Therefore, EPA conducted a study to assess the availability of test facilities and personnel to handle the additional demand for testing programs negotiated with industry in place of rulemaking.

Copies of the study, "Chemical Testing Industry: Profile of Toxicological Testing," October 1981, can be obtained through the NTIS under publication number PB 82-140773. On the basis of this study, the Agency believes that there will be available test facilities and personnel to perform the testing required in this test rule.

VII. Rulemaking Record

EPA has established a public record for this rulemaking (docket number 42033B). This record includes the basic information the Agency considered in developing this rule and appropriate Federal Register notices.

This record includes the following information:

A. Supporting Documentation

(1) Federal Register notices pertaining to this final rule consisting of:

(a) Notice containing the ITC designation of cresols to the Priority List (42 FR 55026; October 12, 1977).

(b) Notice of proposed rule on cresols (48 FR 31812; July 11, 1983).

(c) Notice of final rule on EPA's TSCA Good Laboratory Practice Standards (48 FR 53922; November 29, 1983).

(d) Notice of final rule on test rule development and exemption procedures (49 FR 39774; October 10, 1984).

(e) Notice of final rule concerning data reimbursement (48 FR 31786; July 11, 1983).

(f) Notice of interim final rule on test rule development and exemption procedures (50 FR 20652; May 17, 1985).

(g) Notice of final rule on the C_9 Aromatic Hydrocarbon Fraction (50 FR 20662; May 17, 1985).

(h) Notice of final rule on mesityl oxide (50 FR 51857; December 20,1985).

(2) Support documents consisting of:

(a) Cresols technical support document for proposed rule.

(b) Economic impact analysis of NPRM for cresols.

(c) Economic impact analysis of final test rule for cresols.

(3) Communications consisting of:

(a) Written public comments.

(b) Transcription of public meeting.

(c) Summaries of phone conversations.

(d) Meeting summaries.

(e) Reports—published and unpublished contractor's reports.

B. References

(1) U.S. International Trade Commission. "Synthetic organic chemicals, United States production and sales, 1984." Washington, D.C.: Government Printing Office. USITC pub. 1745, 1985.

(2) Bureau of Census, U.S. Department of Commerce. "U.S. Imports for consumption and general imports, TSUSA. Commodity by country of origin." Washington, D.C. Government Printing Office. FT-246, Annual 1984, 1985.

(3) Cheng, M., Kligerman, A.D. "Evaluation of the genotoxicity of cresols using sister-chromatid exchange (SCE)." *Mutation Research* 137:51-55, 1984.

(4) U.S. Environmental Protection Agency. Memorandum from Kerry L. Dearfield to Linda Tuxen. "Review of Genotoxicity of Cresols using Sister Chromatid Exchange (SCE)." July 11, 1985.

(5) U.S. Environmental Protection Agency. "40 CFR Part 260 et al.—Hazardous Waste Management System; Land Disposal Restrictions; Proposed Rule." 51 FR 1602; January 14, 1986.

(6) Mathtech, Inc. Economic Impact Analysis of Final Test Rule for Cresols. Contract No. 68-02-4235. January 29, 1986.

(7) Cresols Task Force. Comments on EPA's Proposed Test Rule for Cresols. Submission from Robert V. Zener, CTF to Public Information Office, EPA. October 11, 1983.

(8) Hall, J.J. Comments of CONOCO on ITC listing of cresols. Letter from J.J. Hall to Joan Urguhart, Public Information Office, EPA. March 14, 1978.

(9) Ciba-Geigy Corp. Comments of Ciba-Geigy on Cresols Proposed Test Rule. Letter from Anthony DiBattista to Public Information Office, EPA. October 10, 1983.

(10) Mathtech, Inc. Draft Supplemental Report on Cresols and Cresylic Acid. Memorandum from John K. Orrell to Hollis Call. November 28, 1984.

Confidential Business Information (CBI), while part of the record, is not available for public review. A public version of the record, from which CBI has been deleted, is available for inspection from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays, in Rm. E-107, 401 M St., SW., Washington, D.C.

VIII. Other Regulatory Requirement

A. Executive Order 12291

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the order. First, the actual annual cost of all the testing proposed for cresols is estimated at $764,095—$1,050,230 over the market life of the chemical. Second, because the cost of the required testing will be distributed over a large production volume, the rule will have only very minor effects on users' prices (less than 1 percent a year) for this chemical even if all test costs were passed on. Finally, taking into account the nature of the market for this substance, the low level of costs involved, and the expected nature of the mechanisms for sharing the costs of the required testing, EPA concludes that there will be no significant adverse economic effects of any type as a result of this rule.

This proposed regulation was submitted to the Office of Management and Budget (OMB) for review as required by Executive Order 12291. Any written comments received from OMB are included in the Public Record for this rulemaking.

B. Regulatory Flexibility Act

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

1. There are not a significant number of small businesses manufacturing or importing this chemical.

2. Small processors are not expected to perform testing themselves, or participate in the organization of the testing effort.

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

4. Small processors are unlikely to be affected by reimbursement requirements.

C. Paperwork Reduction Act

The information collection requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and have been assigned OMB control number (2070-0033).

D. Comprehensive Environmental Response, Compensation and Liability Act ("Superfund")

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA (42 U.S.C. 9601 *et seq.*, Pub. L. 96-510, December 10, 1980)) requires that persons in charge of vessels or facilities from which hazardous substances have been released in quantities that are equal to or greater than the reportable quantities (RQs) immediately notify the National Response Center (NRC) of the release. (See CERCLA section 103(a), and 50 FR 13456; April 4, 1985). The National Response Center can be notified at (800) 424-8802, except from the Washington, DC metropolitan area, where the telephone number for notification is (202) 426-2675. All designated hazardous substances will have an RQ of one pound until adjusted by regulation under CERCLA, unless such substances are already on the list of CERCLA

hazardous substances and have been assigned an RQ (see CERCLA section 102). Cresols have been assigned an RQ of 1,000 pounds.

List of Subjects in 40 CFR Part 799

Testing, Environmental protection, Hazardous substances, Chemicals, Recordkeeping and reporting requirements.

Dated: April 21, 1986.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

PART 799—[AMENDED]

Therefore, Part 799 is amended as follows:

1. The authority citation continues to read as follows:

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

2. New § 799.1250 is added, to read as follows:

§ 799.1250 Cresols.

(a) *Identification of test substances.* (1) *ortho*-Cresol (CAS No. 95–48–7), *meta*-cresol (CAS No. 108–39–4), and *para*-cresol (CAS No. 106–44–5) shall each be tested in accordance with this section.

(2) *ortho-, meta-,* and *para*-Cresol of at least 99 percent purity shall be used as the test substance.

(b) *Persons required to submit study plans, conduct tests, and submit data.* (1) All persons who manufacture or process or intend to manufacture or process cresols from the effective date of this rule (June 11, 1986) to the end of the reimbursement period shall submit letters of intent to conduct testing or exemption applications, study plans, and/or shall conduct tests and submit data as specified in this section, Subpart A of this Part, and Part 790 of this chapter.

(2) Persons subject to this section are not subject to the requirements of §§ 790.30 (a) (2), (5), and (6) and (b), and 790.87(a)(1)(ii) of this chapter.

(3) Persons who notify EPA of their intent to conduct tests in compliance with the requirements of this section must submit study plans for those tests no later than 30 days before the initiation of each of those tests.

(4) In addition to the requirements of § 790.87(a) (2) and (3) of this chapter, EPA will conditionally approve exemption applications for this rule if EPA has received a letter of intent to conduct the testing from which exemption is sought and EPA has adopted test standards and schedules in a final Phase II test rule.

(c) *Health effects testing*—(1) *Mutagenic effects—chromosomal aberrations*—(i) *Required testing.* (A) *In vitro* cytogenetics tests shall be conducted individually with *ortho-, meta-, and para*-cresol;

(B) An *in vivo* cytogenetics test shall be conducted for each isomer which produces a negative result in the *in vitro* cytogenetics test conducted pursuant to paragraph (c)(1)(i)(A) of this section.

(C) A dominant lethal assay shall be conducted for each isomer which produces a positive result in either the *in vitro* or the *in vivo* cytogenetics test conducted pursuant to paragraphs (c)(1)(i) (A) and (B) of this section.

(ii) *Test standards* [Reserved].

(iii) *Reporting requirements* [Reserved].

(2) *Mutagenic effects—gene mutations*—(i) *Required testing.* (A) A DNA damage assay shall be conducted with *meta*-cresol.

(B) A gene mutation in somatic cells assay shall be conducted individually with *meta-* and *para*-cresol.

(C) A sex-linked recessive lethal test in *Drosophila melanogaster* shall be conducted individually with *ortho-* and *para*-cresol.

(D) A sex-linked recessive lethal test in *Drosophila melanogaster* shall be conducted with *meta-* cresol if it produces a positive result in the DNA damage assay or gene mutation in somatic cells assay conducted pursuant to paragraphs (c)(2)(i) (A) and (B) of this section.

(ii) *Test standards* [Reserved].

(iii) *Reporting requirements* [Reserved].

(3) *Mutagenic effects—cellular transformation—*

(i) *Required testing.* (A) A Balb/c-3T3 cellular transformation test performed without metabolic activation shall be conducted individually with *meta-* and *para*-cresol.

(B) A Balb/c-3T3 cellular transformation test performed with metabolic activation shall be conducted with each isomer which produces a negative result in the cellular transformation test without metabolic activation conducted pursuant to paragraph (c)(3)(i)(A) of this section.

(C) A Balb/c-3T3 cellular transformation test performed with metabolic activation shall be conducted with *ortho*-cresol.

(ii) *Test standards* [Reserved].

(iii) *Reporting requirements* [Reserved].

(4) *Developmental toxicity*—(i) *Required testing.* A developmental toxicity study shall be conducted individually with *ortho-, meta-,* and *para*-cresol.

(ii) *Test standards.* [Reserved].

(iii) *Reporting requirements* [Reserved].

(5) *Reproductive effects—(i) Required testing.* A two-generation reproductive effects study shall be conducted individually with *ortho-, meta-,* and *para*-cresol.

(ii) *Test standards* [Reserved].

(iii) *Reporting requirements* [Reserved].

(Information collection requirements have been approved by the Office of Management and Budget under control number 2070–0033)

[FR Doc 86–9409 Filed 4–25–86; 8:45 am]

BILLING CODE 6560–50–M

GENERAL SERVICES ADMINISTRATION

41 CFR Chapter 101

[FPMR Temp. Reg. E–81, Supp. 1]

Property Management; Acquisition of Systems Furniture

AGENCY: Federal Supply Services GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement revises the expiration date of FPMR Temp. Reg. E–81 from June 30, 1986, to March 15, 1986. This advances the expiration date of the regulation to provide for earlier elimination of the requirement that GSA review and, as appropriate, approve agency plans for acquiring systems furniture. After March 15, 1986, the review and approval of plans for acquiring systems furniture will be the responsibility of agencies. The action is being taken because it has been determined that experience with systems furniture is now widespread among agencies.

DATES: *Effective date:* March 15, 1986.

Expiration date: June 30, 1986.

FOR FURTHER INFORMATION CONTACT: Dan Rowan, Furniture Commodity Center, (703–557–8473).

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the

net benefits; and has chosen the alternative approach involving the least net cost to society.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c))

In 41 CFR Chapter 101, the following temporary regulation is added to the appendix at the end of Subchapter E to read as follows:

Federal Property Management Regulations Temporary Regulation E–81 Supplement 1

April 7, 1986.

To: Heads of Federal agencies

Subject: Acquisition of systems furniture

1. *Purpose.* This supplement revises the expiration date of FPMR Temporary Regulation E–81.

2. *Effective date.* This supplement is effective March 15, 1986.

3. *Expiration date.* This supplement expires on June 30, 1986.

4. *Explanation of changes.* The expiration date in paragraph 3 of FPMR Temporary Regulation E–81 is revised to March 15, 1986.

Paul Trause,

Acting Administrator of General Services.

[FR Doc. 86–9423 Filed 4–25–86; 8:45 am]

BILLING CODE 6820–24–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6710]

List of Communities Eligible for the Sale of Flood Insurance, Michigan et al.

AGENCY: Federal Emergency Management Agency.

ACTION: Final rule.

SUMMARY: This rule lists communities participating in the National Flood Insurance Program (NFIP). These communities have applied to the program and have agreed to enact certain floodplain management measures. The communities' participation in the program authorizes the sale of flood insurance to owners of property located in the communities listed.

EFFECTIVE DATES: The dates listed in the fourth column of the table.

ADDRESS: Flood insurance policies for property located in the communities listed can be obtained from any licensed property insurance agent or broker serving the eligible community, or from the National Flood Insurance Program (NFIP) at: P.O. Box 457, Lanham, Maryland 20706, Phone: (800) 638–7418.

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

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Since the communities on the attached list have recently entered the NFIP, subsidized flood insurance is now available for property in the community.

In addition, the Director of the Federal Emergency Management Agency has identified the special flood hazard areas in some of these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. In the communities listed where a flood map has been published, section 102 of the Flood Disaster Protection Act of 1973, as amended, requires the purchase of flood insurance as a condition of Federal or federally related financial assistance for acquisition or construction of buildings in the special flood hazard area shown on the map.

The Director finds that the delayed effective dates would be contrary to the public interest. The Director also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

The Catalog of Domestic Assistance Number for this program is 83.100 "Flood Insurance."

Pursuant to the provisions of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, to whom authority has been delegated by the Director, Federal Emergency Management Agency, hereby certifies that this rule, if promulgated will not have a significant economic impact on a substantial number of small entities. This rule provides routine legal notice stating the community's status in the NFIP and imposes no new requirements or regulations on participating communities.

List of Subjects in 44 CFR Part 64

Flood insurance—floodplains.

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

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

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

In each entry, a complete chronology of effective dates appears for each listed community. The entry reads as follows:

§ 64.6 List of Eligible Communities.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified
Michigan:				
Grand Traverse	Acme, township of	260749—New	Mar. 3, 1986, Emerg	
Do	East Bay, township of	260748—New	do	
Emmett	Little Traverse, township of	260748—New	do	
Grand Traverse	Peninsula, township of	260747—New	do	
Illinois: Union	Unincorporated areas	170656B	May 1, 1974, Emerg; Feb. 19, 1986, Reg; Feb. 19, 1986, Susp; Mar. 4, 1986, Rein.	Nov. 29, 1974, Sept 17, 1976 and Feb. 19, 1986.
New York: Cortland	Taylor, town of [1]	361330	May 19, 1977, Emerg.; May 15, 1985, Reg.; May. 15, 1985, Susp.; Mar. 5, 1986, Rein.	July 14, 1978.
Georgia: Madison	Unincorporated areas	130470A	Mar. 12, 1986, Emerg	Mar. 17, 1978.
Colorado: Douglas	Parker, town of	080310—New	do	
Missouri: Clinton	Unincorporated areas	290793A	do	July 5, 1984.
Missouri: Boone	Sturgeon, city of	290039	Mar. 17, 1986, Emerg	Mar. 29, 1974 and Apr. 23, 1976.
Colorado: Costilla	Unincorporated areas	080276	Mar. 18, 1986, Emerg	
Missouri: Camden	Linn Creek, city of	290053A	do	Oct. 25, 1974 and Nov. 28, 1975
Oklahoma: Rogers	Chelsea, town of	400187A	do	Dec. 28, 1973 and Dec. 12, 1975
Texas: Denton	Hebron, town of	481495A	do	July 3, 1979.
Kansas: Coffey	Burlington, city of	200063C	May 1, 1975, Emerg; Dec. 4, 1979, Reg; Dec. 4, 1979, Susp; Mar. 17, 1986, Rein.	Dec. 28, 1973, Dec. 12, 1975 and Dec 4, 1979.
Pennsylvania: Washington	North Bethlehem, township of	422560A	Oct. 17, 1975, Emerg; Oct. 15, 1985, Reg; Oct. 15, 1985, Susp; Mar. 18, 1986, Rein.	Jan. 10, 1975 and Oct. 15, 1985.

State and county	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified
New York: Oswego	Parish, village of [1]	361575	Nov. 18, 1975 Emerg; Feb. 19, 1986, Reg; Feb. 19, 1986, Susp; Mar. 26, 1986, Rein.	Oct. 29, 1976 and Feb. 19, 1986.
Pennsylvania: Dauphin	Rush, township of [1]	421597A	Mar. 9, 1976, Emerg; Aug. 19, 1985, Reg; Aug. 19, 1985, Susp; Mar. 28, 1986, Rein.	Jan. 31, 1975 and Aug. 19, 1986.
South Carolina: Georgetown	Pawleys Island, town of [2]	450251—New	Feb. 26, 1971, Emerg; Mar. 1, 1984, Reg	
Region I				
Connecticut: Middlesex County	Essex, town of	090065C	Mar. 4, 1986, suspension withdrawn	Oct. 26, 1973, Aug. 20, 1976, and Mar. 4, 1986.
Region III				
Pennsylvania: Lebanon County	South Londonderry, township of	421043A	do	Oct. 29, 1976 and Mar. 4, 1986.
Region IV				
Alabama: Dallas County	Selma, city of	010065C	do	Dec. 17, 1973, May 21, 1976, July 6, 1979, and Mar. 4, 1986.
Kentucky: Magoffin County	Unincorporated areas	210158B	do	Aug. 26, 1977 and Mar. 4, 1986.
Tennessee: Humphreys County	Waverly, city of	470095B	do	Feb. 15, 1975, July 2, 1976, and Mar. 4, 1986.
Region VIII				
Montana: Beaverhead County	Lima, town of	300177B	do	Mar. 4, 1986.
North Dakota: Hettinger County	Mott, city of	380038C	do	Jan. 9, 1974, Dec. 26, 1975, and Mar. 4, 1986.
California: Los Angeles County	Agoura Hills, city of	065072A	do	Mar. 4, 1986.
Nevada: Independent city	Carson City, city of	320001B	do	May 24, 1974, Jan. 7, 1977, and Mar. 4, 1986.
Region I				
Massachusetts: Essex County	Beverly, city of	250077B	Mar. 18, 1986, suspension withdrawn	Aug. 16, 1974, Dec. 10, 1976, and Mar. 18, 1986.
Region II				
New Jersey: Middlesex County	Middlesex, borough of	345305	do	July 10, 1971, July 1, 1974, Jan. 9, 1976, and Mar. 18, 1986.
New York: Nassau County	Lattingtown, village of	360474C	do	May 17, 1974, Sept. 1, 1978, and Mar. 18, 1986.
Region V				
Ohio: Guernsey County	Cambridge, city of	390200B	do	May 31, 1974, Nov. 21, 1975, and Mar. 18, 1986.
Region VI				
Texas: Caldwell County	Martindale, town of	481587C	do	May 27, 1977, Mar. 15, 1982, and Mar. 18, 1986.
Region VII				
Nebraska: Lancaster County	Lincoln, city of	315273C	do	Apr. 27, 1971, July 1, 1974, Sept 3, 1976, and Nov. 7, 1980.
Region I—Minimal Conversions				
Maine: Aroostook county	Van Buren, town of	230036B	Mar. 18, 1986, suspension withdrawn	June 14, 1974, Sept 24, 1976, and Mar. 18, 1986.
Region II				
New York:				
Jefferson County	Brownville, village of	361576A	do	Apr. 23, 1976 and Mar. 18, 1986.
Montgomery County	Hagaman, village of	360450A	do	Aug. 6, 1976 and Mar. 18, 1986.
Region III				
Pennsylvania: Cambria County	Allegheny, township of	422265A	do	Jan. 24, 1975 and Mar. 18, 1986.
Region VI				
Arkansas: Yell County	Belleville, city of	050384A	do	Apr. 18, 1975 and Mar. 18, 1986.
Region VIII				
Montana:				
Powder River County	Broadus, town of	300058C	do	Aug. 23, 1974, Dec. 26, 1975, Oct. 17, 1978, and Mar. 18, 1986.
Glacier County	Browning, town of	300030B	do	Mar. 15, 1974, Jan. 9, 1976, and Mar. 18, 1986.
Musselshell County	Roundup, city of	300050B	do	June 28, 1974, Apr. 9, 1976, and Mar. 18, 1986.
South Dakota: Turner County	Davis, town of	460086A	do	May 2, 1975 and Mar. 18, 1986.
North Dakota: Bottineau County	Souris, city of	380010A	do	Nov. 29, 1974 and Mar. 18, 1986.
Utah:				
Emery County	Green River, city of	490062B	do	June 21, 1974, Dec. 5, 1975, and Mar. 18, 1986.
Cache County	North Logan, city of	490024B	do	June 28, 1974, Nov. 21, 1975, and Mar. 18, 1986.
Iron County	Parowan, city of	490076B	do	Aug. 16, 1974, Dec. 19, 1975, and Mar. 18, 1986.
Piute County	Unincorporated areas	490094B	do	Nov. 8, 1977 and Mar. 18, 1986.
Cache County	Smithfield, city of	490029B	Mar. 18, 1986, suspension withdrawn	June 28, 1974, Dec. 26, 1975, and Mar. 18, 1983.
Uintah County	Vernal, city of	490149A	do	July 30, 1976 and Mar. 18, 1986.
Washington County	Unincorporated areas	490224B	do	Feb. 7, 1978 and Mar. 18, 1986.
Wyoming:				
Niobrara County	Lusk, town of	560074	do	Sept. 19, 1975 and Mar. 18, 1986.
Sub'ette County	Pinedale, town of	560049B	do	Apr. 5, 1974, Jan. 23, 1976, and Mar. 18, 1986.

[1] Minimal conversions.
[2] This is a newly incorporated community eligible 3-27-86 that was participating in the Regular Program as an unincorporated area of Georgetown County, South Carolina. The Town has adopted by reference the county's Flood Insurance Study and Maps for insurance and floodplain management purposes.

Code for reading 4th column: Emerg.—Emergency; Reg.—Regular; Susp.—Suspension; Rein.—Reinstatement.

Issued: April 22, 1986.

Jeffrey S. Bragg,

Administrator, Federal Insurance Administration.

[FR Doc. 86-9379 Filed 4-25-86; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

Radio Broadcasting; Oversight of the Radio and TV Broadcast Rules

AGENCY: Federal Communications Commission.

ACTION: Final rules; Correction.

SUMMARY: In the Order, Oversight of the Radio and TV Broadcast Rules, published in the **Federal Register** on March 24, 1986 at 51 FR 9963, there was an error in paragraph 10 of the rules appendix pertaining to § 73.3613 Filing of Contracts. The correction of the error which was published April 9, 1986 at 51 FR 12160 was incomplete. It is corrected herein.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Steve Crane, Mass Media Bureau, (202) 632-5414.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

Erratum

In the Matter of Oversight of the Radio and TV Broadcast Rules.

Released: April 18, 1986.

In the above captioned *Order*, released March 7, 1986 and published in the **Federal Register** on March 24, 1986 at 51 FR 9963, there was an error in paragraph 10 of the rules Appendix pertaining to revision of § 73.3613. The correction of the error, as published in the Erratum on April 9, 1986, was incomplete.

It is corrected to read:

10. 47 CFR 73.3613 is amended by removing paragraphs (a)(2) [Reserved], (a)(5) [Reserved] and (a)(6) [Reserved] and redesignating paragraphs (a)(3) and (a)(4) as (a)(2) and (a)(3) respectively; and revising paragraph (d) to read as follows:

§ 73.3613 Filing of contracts.

* * * * *

(d) The following contracts, agreements or understandings need not be filed but shall be kept at the station and made available for inspection upon request by the FCC: Contracts relating to the sale of broadcast time to "time brokers" for resale; subchannel leasing agreements for Subsidiary Communications Authorization operation; franchise/leasing agreements for operation of telecommunications services on the TV vertical blanking interval; time sales contracts with the same sponsor for 4 or more hours per day, except where the length of the events (such as athletic contests, musical programs and special events) broadcast pursuant to the contract is not under control of the station; and contracts with chief operators.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-9448 Filed 4-25-86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85-255; RM-4982]

FM Broadcast Station in Oswego, NY

AGENCY: Federal Communications Commission.

ACTION: Final Rule.

SUMMARY: Action taken herein allocates Channel 244A to Oswego, New York, as the community's second local FM service, at the request of William Kirkpatrick.

EFFECTIVE DATE: May 29, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Leslie K. Shapiro, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

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

Report and Order (Proceeding Terminated)

In the Matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Oswego, New York); MM Docket No. 85-255, RM-4982.

Adopted: April 9, 1986.

Released: April 22, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 50 FR 34873, published August 28, 1985, proposing the allocation of Channel 244A to Oswego, New York, as the community's second local FM service, at the request of William Kirkpatrick ("petitioner"). Petitioner submitted comments reiterating his intention to apply for the channel, if allocated. No other comments were received.

2. The petitioner was requested to furnish the Commission with a study showing that a site was available from which a Channel 244A operation could provide the required 70 dBu signal over Oswego since the necessary 11.4 kilometer east site restriction is beyond the distance for which we could assume such coverage. Petitioner has responded by stating that such a site does exist in the area of North Scriba and that a Channel 244A operation from that point could provide the required 70 dBu signal over all of Oswego. We have examined petitioner's showing and believe that the requisite city-grade signal can be provided over all of Oswego from the site which he has identified.

3. Canadian concurrence in the allocation has been received since Oswego is located within 320 kilometers (200 miles) of the U.S.-Canadian border.

4. We believe that the channel should be allocated to Oswego since it could provide the community with its second local FM service. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective May 29, 1986, the FM Table of Allotments, § 73.202(b) of the Rules, is amended with respect to the community listed below, to read as follows:

City	Channel No.
Oswego, NY	244A, 288A

5. The window period for filing applications will open on May 30, 1986, and close on June 30, 1986.

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Leslie K. Shapiro, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86–9438 Filed 4–25–86; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[MM Docket No. 85–219; RM–4911]

FM Broadcast Station in Toppenish, WA

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: Action taken herein, at the request of Radio Broadcasters, Inc., allots Class C2 Channel 225 as a substitute for Channel 224A at Toppenish, Washington, and modifies the license of Station KZHR(FM) (Channel 224A) to specify operation on the Class C2 channel.

EFFECTIVE DATE: May 29, 1986.

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

FOR FURTHER INFORMATION CONTACT: Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

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

Report and Order (Proceeding Terminated)

In the Matter of Amendment § 73.202(b), Table of Allotments, FM Broadcast Stations, (Toppenish, Washington); MM Docket No. 85–219, RM–4911.

Adopted: April 9, 1986.
Released: April 22, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it for consideration the *Notice of Proposed Rule Making*, 50 FR 30976, published July 31, 1985, proposing the substitution of Class C2 Channel 225 for Channel 224A at Toppenish, Washington. The *Notice* was adopted in response to a petition filed by Radio Broadcasters, Inc., licensee of Station KZHR(FM), which also requested modification of its license to specify operation on Channel 225C2. Petitioner filed supporting comments and reply comments reiterating its interest in the channel substitution. No other comments were received.

2. The substitution can be made in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules.

3. We believe the public interest would be served by the substitution of Channel 225C2 for Channel 224A at Toppenish in order to provide that community and the surrounding area with its first wide coverage FM station. Since no other party expressed an interest in the use of the new channel, we are herein modifying the license of Station KZHR(FM) to specify operation on Channel 225C2 in lieu of Channel 224A. See, *Modification of FM and TV Station Licenses*, 98 FCC 2d 916 (1984).

4. Accordingly, pursuant to the authority contained in sections 4(i), 5(c)(1), 303 (g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules, it is ordered, that effective May 29, 1986, the FM Table of Allotments, § 73.202(b) of the Commission's Rules, is amended for the following community:

City	Channel No.
Toppenish, WA	225C2

5. It is further ordered, that pursuant to section 316(a) of the Communications Act of 1934, as amended, the license of Station KZHR(FM), Toppenish, Washington is modified to specify operation on Channel 225C2 subject to the following conditions:

(a) The licensee shall submit to the Commission a minor change application for a construction permit (Form 301) specifying the new facility.

(b) Upon grant of the construction permit, program tests may be conducted in accordance with § 73.1620; and

(c) Nothing contained herein shall be construed to authorize a change in transmitter location or to avoid the necessity of filing an environmental impact statement pursuant to § 1.301 of the Commission's Rules.

6. It is further ordered, that this proceeding is terminated.

7. For further information concerning this proceeding, contact Patricia Rawlings, Mass Media Bureau, (202) 634–6530.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86–9439 Filed 4–25–86; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 51, No. 81
Monday, April 28, 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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 581

Processing Garnishment Orders for Child Support and/or Alimony

AGENCY: Office of Personnel Management.

ACTION: Proposed rule.

SUMMARY: The Office of Personnel Management (OPM) is proposing a revision to its regulations concerning the processing of garnishment orders for child support and/or alimony. The proposed regulations would amend the attorney fee provisions to conform with an interpretation of the statutory garnishment provisions recently announced by the Department of Justice. Under the recent interpretation, remuneration will only be subject to garnishment for attorney fees when the attorney fees are expressly awarded as alimony or as child support.

DATE: Comments should be received by June 27, 1986.

ADDRESS: Send or deliver comments and/or designated agent information to W. Scott Burke, General Counsel, Office of Personnel Management, Room 5H30, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Murray M. Meeker, (202) 632–4518.

SUPPLEMENTARY INFORMATION: The proposed revisions respond to certain suggestions presented by public interest groups and make certain technical and typographical corrections. Because of economic constraints, this proposed rule does not include changes to Appendix A to Part 581, the list of agents designated to accept legal process. Changes to Appendix A will appear when the proposed rule is published as a final rule. Governmental entities are urged to review the current Appendix A in title 5 of the Code of Federal Regulations (October 1, 1985 edition) and advise OPM, at the following address if any changes should be made: Office of the General Counsel, Office of Personnel Management, 1900 E St., NW, Rm. 5H30, Washington, DC 20415. OPM has already received changes from the following agencies: Merit Systems Protection Board; Farm Credit Administration; Department of Transportation, Federal Aviation Administration and Maritime Administration; Department of Defense, Defense Investigative Service; Department of the Interior, Bureau of Reclamation, Office of Surface Mining, and Heritage Conservation and Recreation Service; National Endowment for the Arts; Veterans Administration, Nevada: Henderson Outpatient Clinic and Las Vegas Outpatient Clinic; and National Archives and Records Administration.

E.O. 12291, Federal Regulation

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

Regulatory Flexibility Act

I certify that these regulations will not have significant economic impact on a substantial number of small entities because their effects are limited primarily to Federal employees.

List of Subjects in 5 CFR Part 581

Alimony, Child welfare, Government employees, Wages.

U.S. Office of Personnel Management.

Constance Horner,

Director.

PART 581—PROCESSING GARNISHMENT ORDERS FOR CHILD SUPPORT AND/OR ALIMONY

Accordingly, OPM proposes to amend 5 CFR Part 581 as follows:

1. The authority citation for Part 581 continues to read as follows:

Authority: 42 U.S.C. 659, 661–662; 15 U.S.C. 1673; E.O. 12105

2. In § 581.102, paragraphs (d), (e), and (g) are revised to read as follows:

§ 581.102 Definitions.

* * * * *

(d) "Child support" means periodic payments of funds for the support and maintenance of a child or children, and, subject to and in accordance with State or local law, includes, but is not limited to, payments to provide for health care, education, recreation, clothing, or to meet other specific needs of such a child or children; the term also includes attorney's fees, interest, and court costs, when and to the extent that the same are expressly made recoverable as such under a decree, order, or judgment issued in accordance with applicable State or local law by a court of competent jurisdiction.

(e) "Alimony" means periodic payments of funds for the support and maintenance of a spouse or former spouse, and, subject to and in accordance with State or local law, includes, but is not limited to, separate maintenance, alimony pendente lite, maintenance, and spousal support. Alimony also includes attorney's fees, interest, and court costs, if they are expressly made recoverable as such under a decree, order, or judgment issued in accordance with applicable State or local law by a court of competent jurisdiction. This term does not include any payment or transfer of property or its value by an individual to his or her spouse or former spouse in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses. (See instead 5 U.S.C. 8345(j) and 5 CFR Part 831, Subpart Q.)

* * * * *

(g) "Legal obligation" means an obligation to pay alimony and/or child support that is enforceable under appropriate State or local law. A legal obligation may include current as well as past due alimony and/or child support debts depending on the law in the jurisdiction from which the legal process was issued.

3. In § 581.103, the introductory text of paragraph (a) is republished and paragraph (a)(23)(iv) is revised to read as follows:

§ 581.103 Moneys which are subject to garnishment.

(a) For the personal service of a civilian employee obligor:

* * * * *

(23) Moneys due on account of the services of a deceased employee obligor, including:

* * * * *

(iv) Retroactive pay as provided for in section 5344(b)(2) of title 5 of the United States Code; and

* * * * *

4. In § 581.104, paragraphs (c) and (f) are revised to read as follows:

§ 581.104 Moneys which are not subject to garnishment.

* * * * *

(c) Refunds and other payments made in connection with overpayments or erroneous payments of income tax and other taxes levied under title 26 of the United States Code;

* * * * *

(f) Veterans' educational assistance payments under sections 1651 et seq., of title 38 of the United States Code;

* * * * *

5. In § 581.105, the introductory text of the section paragraphs (a), (b)(3) and (b)(4) are revised, paragraph (b)(5) is added, and the introductory text of paragraph (b) is republished to read as follows:

§ 581.105 Exclusions.

In determining the amount of any "moneys due from, or payable by, the United States" to any individual, there shall be excluded amounts which:

(a) Are owed by the individual to the United States, except where the obligor's debt is for child support and the amount owed the United States results from an income tax lien or levy under section 6331 of title 26 of the United States Code;

(b) Are required by law to be deducted from the remuneration or other payment involved, including, but not limited to:

* * * * *

(3) Amounts mandatorily withheld for the U.S. Soldiers' and Airmen's Home;

(4) Fines and forfeitures ordered by a court-martial or by a commanding officer; and

(5) Amounts deducted for Medicare;

* * * * *

6. In § 581.202, paragraph (c) is revised to read as follows:

§ 581.202 Service of process.

* * * * *

(c) Where it does not appear from the face of the process that it has been brought to enforce the legal obligation(s) defined in § 581.102(d) and/or (e), the process must be accompanied by a certified copy of the court order or other document establishing such legal obligation(s).

* * * * *

7. In § 581.305, the introductory text of paragraph (a) is republished, paragraph (a)(6) is revised and paragraph (g) is added to read as follows:

§ 581.305 Honoring legal process.

(a) The governmental entity shall comply with legal process, except where the process cannot be complied with because:

* * * * *

(6) Where notice is received that the obligor has appealed either the legal process or the underlying alimony and/or child support order, payment of moneys subject to the legal process shall be suspended; i.e., moneys shall continue to be withheld, but these amounts shall be retained by the governmental entity until the entity is ordered by the court, or other authority, to resume payments or otherwise disburse the suspended amounts. However, no suspension action shall be taken where the applicable law of the jurisdiction wherein the appeal is filed requires compliance with the legal process while an appeal is pending. Where the legal process has been issued by a court in the District of Columbia, a motion to quash shall be deemed equivalent to an appeal.

* * * * *

(g) A failure by the party bringing the garnishment action to comply with the provisions of the Uniform Reciprocal Enforcement of Support Act (URESA) or the Revised Uniform Reciprocal Enforcement of Support Act, by itself, shall not be a valid basis for a governmental entity to refuse to comply with legal process.

[FR Doc. 86-9421 Filed 4-25-86; 8:45 am]
BILLING CODE 6325-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 85-AWA-6]

Proposed Establishment of Airport Radar Service Areas

AGENCY: Federal Aviation Administraiton (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM); extension of comment period and notice of an informal airspace meeting.

SUMMARY: This notice announces extension of the comment period on an NPRM which proposes to establish an Airport Radar Service Area at Standiford Field Airport, Louisville, KY, and give notification of informal airspace meeting.

DATES: Comments must be received on or before July 3, 1986. Meeting will be held June 12, 1986.

ADDRESSES: Send comments on the proposal in triplicate to:

Federal Aviation Administration, Office of the Chief Counsel, Attention: Rules Docket [AGC-204], Airspace Docket No. 85-AWA-6, 800 Independence Avenue, SW., Washington, DC 20591.

Informal Airspace meeting beginning at 7:30 p.m. will be held at:

The 100th Division United States Army Reserve Center, 3590 Century Division Way, Building 3, Louisville, KY.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

The official docket may be examined in the Rules Docket, weekday, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room, 916, 800 Independence Avenue, SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Robert Burns, Airspace and Air Traffic Rules Branch (ATO-230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 426-8783.

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. 85-AWA-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 Rules Dockets 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's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA–430, 800 Independence Avenue, SW., Washington, DC 20591, or by calling (202) 426–8058. 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.

Background

Airspace Docket No. 85–AWA–6, published on September 30, 1985, (50 FR 39822) proposed to establish an Airport Radar Service Area (ARSA) at Standiford Field Airport, Louisville, KY, and an informal airspace meeting was scheduled for February 27, 1986, to receive additional public comment on the proposal. In addition to publication of the informal airspace meeting in the **Federal Register**, the FAA intended to mail individual notices of the meeting to pilots in the Louisville, KY, area. Due to an administrative error not all of the individual mailings were made in a timely manner. This action extends the period for public comment on Airspace Docket No. 85–AWA–6, as it applies to Standiford Field Airport, Louisville, KY, only, and schedules an additional informal airspace meeting.

Meeting Procedures

In addition to seeking written comments on this proposal, the FAA will hold a additional informal airspace meeting for Standiford Field Airport, Louisville, KY, in order to receive additional input with respect to the proposal. Persons who plan to attend the meeting should be aware of the following procedures to be followed:

(a) The meeting will be informal in nature and will be conducted by the designated representative of the Administrator. Each participant will be given an opportunity to make a presentation.

(b) There will be no admission fee or other charge to attend and participate. The meeting will be open to all persons on a space-available basis. The FAA representative may accelerate the agenda to enable early adjournment if the progress of the meeting is more expeditious than planned.

(c) The meeting will not be recorded. A summary of the comments made at the meeting will be filed in the docket.

(d) Position papers or other handout material relating to the substance of the meeting may be accepted at the discretion of the FAA representative. Participants submitting handout materials should present an original and two copies to the presiding officer for approval before distribution. If approved by the presiding officer, there should be an adequate number of copies provided for further distribution to all participants.

(e) Statements made by FAA participants at the meeting should not be taken as expressing a final FAA position.

Agenda

Presentation of Meeting Procedures
FAA Presentation of Proposal
Public Presentations and Discussion

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

Extension of Comment Period and Notice of Public Meeting

The comment period for Airspace Docket No. 85–AWA–6 as it applies to Standiford Field Airport, Louisville, KY, is extended to close on July 3, 1986. An informal airspace meeting is scheduled for June 12, 1986, to be held at The 100th Division United States Army Reserve Center, 3590 Century Division Way, Building 3, Louisville, KY, beginning at 7:30 p.m.

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

*Issued in Washington, DC, on April 21, 1986.

James Burns, Jr.,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86–9354 Filed 4–25–86; 8:45 am]
BILLING CODE 4910–13–M

14 CFR Part 71

[Airspace Docket No. 86–AWA–15]

Proposed Alteration of VOR Federal Airways; Nebraska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the description of V–15, V–138, V–159, and V–172 located in the vicinity of Omaha, NE. The Neola, IA, very high frequency omni-directional radio range and tactical air navigational aid (VORTAC) is being decommissioned and all airways that have Neola in their descriptions will require amendment. This action is due to the planned decommissioning of the Neola VORTAC, as part of the Central Region's Networking Plan.

DATES: Comments must be received on or before June 9, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Central Region, Attention: Manager, Air Traffic Division, Docket No. 86–AWA–15, Federal Aviation Administration, 601 East 12th Street, Federal Building, Kansas City, MO 64106.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Lewis W. Still, Airspace and Air Traffic Rules Branch (ATO–230), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC. 20591; telephone: (202) 426–8626.

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-AWA-15." 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 Rules Docket 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's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 426-8058. 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 Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter VOR Federal Airways V-15, V-138, V-159, and V-172 located in the vicinity of Omaha, NE. The Neola, IA, VORTAC is being decommissioned and all airways that have Neola in their descriptions are proposed for realignment. Section 71.123 of Part 71 of the Federal Aviation Regulations was republished in Handbook 7400.6B dated January 2, 1986.

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

List of Subjects in 14 CFR Part 71

Aviation safety, VOR Federal airways.

The Proposed Amendment

PART 71—[AMENDED]

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration 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 11.69.

2. Section 71.123 is amended as follows:

V-15—[Amended]

By removing the words "From St. Joseph, MO, via INT St. Joseph 343° and Neola, IA, 157° radials; Neola; INT Neola 322° and Sioux City, IA, 159° radials; Sioux City;" and substituting the words "From Sioux City, IA;"

V-138—[Amended]

By removing the words "; 1,200 feet AGL INT of Lincoln 040° and Neola, IA, 253° radials; Neola;" and substituting the words". From Omaha, NE; INT Omaha 032°T(024°M) and Fort Dodge, IA, 222°T(215°M) radials;"

V-159—[Amended]

By removing the words "INT St Joseph 328° and Omaha, NE, 155° radials; Omaha;" and by substituting the words "Omaha, NE;"

V-172—[Amended]

By removing the words "; Neola, IA; Newton, IA;" and substituting the words ". From Omaha, NE, INT Omaha 066°T(058°M) and Newton, IA, 262°T(256°M) radials; Newton;"

Issued in Washington, DC, on April 17, 1986.

James Burns, Jr.,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 86-9349 Filed 4-25-86; 8:45 am]

BILLING CODE 4910-13-M

14 CFR Parts 71 and 73

[Airspace Docket No. 85-ASO-20]

Proposed Alteration of Restricted Areas R-2904 Starke, FL, and R-2903B Stevens Lake, FL

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter the lateral and vertical limits of Restricted Area R-2903B Stevens Lake, FL, and the vertical limits of R-2904 Starke, FL. The proposed realignment of R-2903B will increase the lateral limits to include the southern portion of the Camp Blanding Military Reservation. The proposal will also stratify and renumber portions of the Restricted Areas R-2903B and R2904. These changes are being made at the request of the United States Army in order to accommodate new artillery requirements.

DATE: Comments must be received on or before June 10, 1986.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA, Southern Region, Attention: Manager, Air Traffic Division, Docket No. 85-ASO-20, Federal Aviation Administration, P.O. Box 20636, Atlanta, GA 30320.

The official docket may be examined in the Rules Docket, weekdays, except Federal holidays, between 8:30 a.m. and 5:00 p.m. The FAA Rules Docket is located in the Office of the Chief Counsel, Room 916, 800 Independence Avenue SW., Washington, DC.

An informal docket may also be examined during normal business hours at the office of the Regional Air Traffic Division.

FOR FURTHER INFORMATION CONTACT: Ronald C. Montague, Airspace and Aeronautical Information Requirements Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 426-3128.

SUPPLEMENTARY INFORMATION:

Comments Invited

This proposal is being circulated by the FAA at the request of the U.S. Army in an effort to fully inform the public.

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 factural

basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposals. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposals. 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. 85-ASO-20." 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 proposals contained in this notice may be changed in the light of comments received. All comments submitted will be available for examination in the Rules Docket 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's

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue SW., Washington, D.C. 20591, or by calling (202) 426-8058. 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 Proposals

The FAA is considering amendments to Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) to alter the lateral and vertical limits of R-2903B and subdivide R-2904 and R-2904A and R-2904B. This amendment will establish R-2903A, R-2903C and R-2903D. The proposed alteration will increase the lateral limits of R-2903B to include the southern portion of the Camp Blanding Military Reservation near Keystone Airpark, FL. Additionally, the alteration will increase the vertical limits of R-2903B to FL 320. The vertical limits of R-2904B will be FL 320. The additional airspace requested in this proposal is the minimum airspace necessary to accomplish new artillery requirements as well as current operations. Sections 71.151 and 73.29 of Parts 71 and 73 of the Federal Aviation Regulations were republished in Handbook 7400.6B dated January 2, 1986.

Because of the projected impact on nonparticipating aircraft, the following was agreed to by the U.S. Army:

1. The vertical airspace overlying R-2903A, from FL 230 to FL 320 will have a limited time of use of 2000 local to 0500 local, not to exceed 24 days per year.

2. The vertical airspace overlying R-2904A, from 1,800 feet mean sea level to FL 320 will have a limited time of use of 2000 local to 0500 local, not to exceed 24 days per year.

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

List of Subjects in 14 CFR Parts 71 and 73

Aviation safety, Continental control area, Restricted areas

The Proposed Amendments

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Parts 71 and 73 of the Federal Aviation Regulations (14 CFR Parts 71 and 73) as follows:

PART 71—[AMENDED]

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

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

§ 71.151 [Amended]

2. § 71.151 is amended as follows:

R-2903A Stevens Lake, FL—[New]

R-2904B Starke, FL—[New]

PART 73—[AMENDED]

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

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

§ 73.29 [Amended]

4. § 73.29 is amended as follows:

R-2903A Stevens Lake, FL—[New]

Boundaries. Beginning at lat. 29°58'05"N., long. 81°59'10"W.; to lat. 29°58'55"N., long. 81°59'33"W.; to lat. 29°58'55"N., long. 81°56'05"W.; to lat. 29°56'45"N., long. 81°53'15"W.; to lat. 29°55'31"N., long. 81°54'08"W.; thence clockwise along an arc of a circle 5 NM in radius centered at lat. 29°53'04"N., long. 81°59'09"W.; to lat. 29°48'26"N., long. 81°56'58"W.; to lat. 29°50'09"N., long. 81°58'36"W.; to lat. 29°48'45"N., long. 82°00'18"W.; to lat. 29°48'45"N., long. 82°01'45"W.; to lat. 29°51'00"N., long. 82°01'45"W.; to lat. 29°51'00"N., long. 82°02'18"W.; to lat. 29°51'54"N., long. 82°02'18"W.; to lat. 29°51'54"N., long. 82°02'18"W.; to lat. 29°51'54"N., long. 82°02'45"W.; to lat. 29°52'48"N., long. 82°02'45"W.; to lat. 29°53'45"N., long. 82°04'51"W.; thence clockwise along an arc of a circle 5 NM in radius centered at lat. 29°53'04"N., long. 81°59'09"W.; to the point of beginning.

Designated altitudes. Surface to FL 230.

Time of designation. Intermittent, 0700-1900 local, Tuesday-Sunday; other times by NOTAM at least 24 hours in advance.

Controlling agency. FAA, Jacksonville ARTCC.

Using agency. U.S. Army, Department of Military Affairs, State Arsenal, St. Augustine, FL.

R-2903B Stevens Lake, FL—[Revised]

Boundaries. Beginning at lat. 29°58'05"N., long. 81°59'10"W.; to lat. 29°58'55"N., long. 81°59'33"W.; to lat. 29°58'55"N., long. 81°56'05"W.; to lat. 29°56'45"N., long. 81°53'15"W.; to lat. 29°55'31"N., long. 81°54'08"W.; thence clockwise along an arc of a circle 5 NM in radius centered at lat. 29°53'04"N., long. 81°59'09"W.; to lat. 29°48'26"N., long. 81°56'58"W.; to lat. 29°50'09"N., long. 81°58'36"W.; to lat. 29°48'45"N., long. 82°00'18"W.; to lat. 29°48'45"N., long. 82°01'45"W.; to lat. 29°51'00"N., long. 82°01'45"W.; to lat. 29°51'00"N., long. 82°02'18"W.; to lat. 29°51'54"N., long. 82°02'18"W.; to lat. 29°51'54"N., long. 82°02'45"W.; to lat. 29°52'48"N., long. 82°02'45"W.; to lat. 29°53'45"N., long. 82°04'51"W.; thence clockwise along an arc of a circle 5 NM in radius centered at lat. 29°53'04"N., long. 81°59'09"W.; to the point of beginning.

Designated altitudes. FL 230 to FL 320.

Time of designation. Intermittent, 2000-0500 local, Saturday-Sunday, not to exceed 24 days per year.

Controlling agency. FAA, Jacksonville ARTCC.

Using agency. U.S. Army, Department of Military Affairs, State Arsenal, St. Augustine, FL.

R-2903C Stevens Lake, FL—[New]

Boundaries. Beginning at lat. 29°52'30" N., long. 81°53'26"W.; to lat. 29°51'13"N., long. 81°50'57"W.; to lat. 29°47'00"N., long. 81°53'55"W.; to lat. 29°48'26"N., long. 81°56'58"W.; thence clockwise along an arc of a circle 5 NM in radius centered at lat. 29°53'04"N., long. 81°59'09"W.; to the point of beginning.

Designated altitudes. Surface to 7,000 feet MSL.

Time of designation. Intermittent, 0700–1900 local, Tuesday–Sunday; other times by NOTAM at least 24 hours in advance.

Controlling agency. FAA, Jacksonville ARTCC.

Using agency. U.S. Army, Department of Military Affairs, State Arsenal, St. Augustine, FL.

R-2903D Stevens Lake, FL—[New]

Boundaries. Beginning at lat. 29°51'13"N., long. 81°50'57"W.; to lat. 29°49'00"N., long. 81°46'20"W.; to lat. 29°44'50"N., long. 81°49'05"W.; to lat. 29°47'00"N., long. 81°53'55"W.; to the point of beginning.

Designated altitudes. Surface to 5,000 feet MSL.

Times of designation. Intermittent, 0700–1900 local, Tuesday-Sunday; other times by NOTAM at least 24 hours in advance.

Controlling agency. FAA, Jacksonville ARTCC.

Using agency. U.S. Army, Department of Military Affairs, State Arsenal, St. Augustine, FL.

R-2904 Starke, FL—[Remove]

R-2904A Starke, FL—[New]

Boundaries. Beginning at lat. 30°03'30"N., long. 81°55'40"W.; to lat. 29°58'55"N., long. 81°55'40"W.; to lat. 29°58'55"N., long. 82°02'46"W.; to lat. 30°03'30"N., long. 82°02'46"W.; thence to the point of beginning.

Designated altitudes. Surface to but not include 1,800 feet MSL.

Time of designation. April-August, daily 0800–1700 local; September-March, Saturday-Sunday 0800–1700 local; other times by NOTAM at least 24 hours in advance.

Controlling agency. FAA, Jacksonville ARTCC.

Using agency. U.S. Army, Department of Military Affairs, State Arsenal, St. Augustine, FL.

R-2904B Starke, FL—[New]

Boundaries. Beginning at lat. 30°03'30"N., long. 81°55'40"W.; to lat. 29°58'55"N., long. 81°55'40"W.; to lat. 29°58'55"N., long. 82°02'46"W.; to lat. 30°03'30"N., long. 82°02'46"W.; to the point of beginning.

Designated altitudes. 1,800 feet MSL to FL 320.

Time of designation. Intermittent, 2000–0500 local, Saturday-Sunday, activated by NOTAM at least 24 hours in advance; not to exceed 24 days per year.

Controlling agency. FAA, Jacksonville ARTCC.

Using agency. U.S. Army, Department of Military Affairs, State Arsenal, St. Augustine, FL.

Issued in Washington, D.C., on April 21, 1986.

James Burns, Jr.,

Manager, Airspace-Rules and Aeronautical Information Dvision.

[FR Doc. 86-9351 Filed 4-25-86; 8:45 am]

BILLING CODE 4910-13-M

FEDERAL TRADE COMMISSION

16 CFR Part 13

[Docket No. 9197]

Roy Brog; Proposed Consent Agreement With Analysis to Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: In settlement of alleged violations of federal law prohibiting unfair acts and practices and unfair methods of competition, this consent agreement, accepted subject to final Commission approval, would require, among other things, a former chairman of the board of a Salt Lake City, Utah manufacuturer and distributor of a dry milk substitute, among other things, to cease making any representations concerning the health benefits or expected shelf life for "Meadow Fresh White", a powdered, dairy-based milk substitute, or other food products, without reliable and competent substantiation. Also, respondent is prohibited from excluding some distributors in computing "average" distributor earnings without proper disclosures concerning the method of computation.

DATE: Comments will be received until June 27, 1986.

ADDRESS: Comments should be addressed to: FTC/Office of the Secretary, Room 136, 6th St. and Pa. Ave. NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: FTC/H-238A, Larry Hodapp, Washington, DC 20580. (202) 523-3860.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46 and § 3.25(f) of the Commission's rules of practice (16 CFR 3.25(f)), notice is hereby given that the following consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. Public comment is invited. Such comments or views will be considerd by the Commission and will available for inspection and copying at its principal office in accordance with § 4.9(b)(14) of the Commission's rules of practice (16 CFR 4.9(b)(14)).

List of Subjects in 16 CFR Part 13

Dry milk substitutes, Trade practices.

Before Federal Trade Commission

[Docket No. 9197]

Agreement Containing Consent Order to Cease and Desist

In the matter of Roy Brog, individually and as a former officer and director of Meadow Fresh Farms, Inc.

Roy Brog, individually and as a former officer and director of Meadow Fresh Farms, Inc., ("respondent") and counsel for the Federal Trade Commission enter into this agreement in accordance with the Commission's rules governing consent order procedures. The parties agree that:

1. Respondent Roy Brog is a former officer and director of Meadow Fresh Farms, Inc. His address is 1320 East 2300 North, Logan, Utah 84321.

2. Respondent has been served with a copy of the complaint issued by the Federal Trade Commission charging him with violations of section 5 of the Federal Trade Commission Act.

3. Respondent admits all the jurisdictional facts set forth in the Commission's complaint in this proceeding.

4. Respondent waives:

(a) Any further procedural steps;

(b) The requirement that the Commission's decision contain a statement of findings of fact and conclusions of law;

(c) All rights to seek judicial review or otherwise to challenge or contest the validity of the order entered pursuant to this agreement; and

(d) Any claim under the Equal Access to Justice Act.

5. This agreement shall not become part of the public record of the proceeding unless and until it is accepted by the Commission. If this agreement is accepted by the Commission it will be placed on the public record for a period of sixty (60) days and information in respect thereto publicly released. The Commission thereafter may either withdraw its acceptance of this agreement and so notify the respondent, in which event it will take such action as it may consider appropriate, or issue and serve its decision, in disposition of the proceeding.

6. This agreement is for settlement purposes only and does not constitute an admission by respondent that the law has been violated as alleged in the complaint.

7. This agreement contemplates that, if it is accepted by the Commission, and if

such acceptance is not subsequently withdrawn by the Commission pursuant to the provisions of § 3.25(f) of the Commission's Rules, the Commission may, without further notice to respondent, (1) issued its decision containing the following order to cease and desist in disposition of the proceeding, and (2) make information public in respect thereto. When so entered, the order to cease and desist shall have the same force and effect and may be altered, modified or set aside in the same manner and within the same time provided by statute for other orders. The order shall become final upon service. Delivery by the U.S. Postal Service of the decision containing the agreed-to order to respondent's address as stated in this agreement shall constitute service. Respondent waives any right he may have to any other manner of service. The complaint may be used in construing the terms of the order, and no agreement, understanding, representation, or interpretation not contained in the order or the agreement may be used to vary or contradict the terms of the order.

8. Respondent has read the complaint and order contemplated hereby. He understands that once the order has been issued, he will be required to file one or more compliance reports showing that he has fully complied with the order. Respondent further understands that he may be liable for civil penalties in the amount provided by law for each violation of the order after it becomes final.

ORDER

I

It Is Ordered that respondent Roy Brog, individually and as a former officer and director of Meadow Fresh Farms, Inc., and respondent's agents, representatives, and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, offering for sale, sale, or distribution of a powdered, dairy-based drink called "Meadow Fresh" or any other food product in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing, directly or by implication, unless at the time of such representation respondent possesses and relies upon reliable and competent scientific evidence that substantiates any such representation: (a) Any benefit in preventing cardiovascular or other disease through the use of such product, (b) any nutritional or other health related attribute of such product, or (c) any expected shelf life of such product. "Reliable and competent" shall mean for purposes of this order those tests, analyses, research, studies, or other evidence conducted and evaluated in an objective manner by persons qualified to do so, using procedures generally accepted in the profession or science to yield accurate and reliable results.

II

It Is Further Ordered that respondent Roy Brog, individually and as a former officer and director of Meadow Fresh Farms, Inc., and respondent's agents, representatives and employees, directly or through any corporation, subsidiary, division or other device, in connection with the manufacturing, advertising, offering for sale, sale or distribution of any product or service in or affecting commerce, as "commerce" is defined in the Federal Trade Commission Act, do forthwith cease and desist from representing as an "average," directly or by implication, any computation of income levels, earnings, sales or other payments received by distributors as a whole or by a specified distributor category which is based on less than all distributors in the stated category, unless the fact that some distributors are excluded and the basis for any such exclusion are clearly and prominently disclosed in close proximity to such representation.

"Distributor" as used in this order shall refer to any person, partnership or corporation which is granted the right to offer, sell or distribute goods or services manufactured, processed, distributed, offered or sold by respondent or to recruit other persons, partnerships or corporations to be distributors of respondent's goods or services.

III

It Is Further Ordered that respondent shall, for at least three years after the date the representation is last disseminated, maintain and upon request make available to the Federal Trade Commission for inspection and copying copies of:

1. All materials relied upon to substantiate any representation covered by this order; and

2. All test reports, studies, surveys, or demonstrations in his possession or control, or of which he has knowledge, that contradict any representation covered by this order.

IV

It Is Further Ordered that respondent shall promptly notify the Commission of the discontinuance of his present business or employment and that, for a period of four years from the date of service of this order, respondent shall promptly notify the Commission of each affiliation with a new business or employment, with each such notice to include the respondent's new business address and a statement of the nature of the business or employment in which the respondent is newly engaged, as well as a description of respondent's duties and responsibilities in connection with the business or employment.

V

It Is Further Ordered that respondent shall forthwith distribute a copy of this order to all distributors of products manufactured or marketed by respondent.

VI

It Is Further Ordered that respondent shall, within sixty (60) days after service of this order, file with the Commission a report, in writing, setting forth in detail the manner and form in which he has complied with this order.

Analysis of Proposed Consent Order to Aid Public Comment

The Federal Trade Commission has accepted an agreement to a proposed consent order from Roy Brog, former officer and director of Meadow Fresh Farms, Inc., South Orange Street, Salt Lake City, Utah, a multilateral marketer of powdered milk drinks.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After 60 days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

The complaint alleges that Roy Brog has represented that "Meadow Fresh," a powdered, dairy-based drink, is associated with a reduction in the incidence of cardiovascular disease due to reduced levels of xanthine oxidase, that xanthine oxidase is a major contributor to cardiovascular problems, that Meadow Fresh has an expected storage life of up to ten years under reasonable storage conditions, and that he possessed and relied upon a

reasonable basis for these representations. The complaint alleges that at no time has Roy Brog possessed and relied upon a reasonable basis for such representations.

In addition, the complaint alleges that Roy Brog has made false and misleading representations regarding the income being derived by distributors of Meadow Fresh. The complaint alleges that Roy Brog disseminated figures which purported to be average monthly income figures, but which were, in fact, computed by considering only the minority of distributors who actually earned some income during the applicable period. The complaint alleges that this manner of computation results in income figures which are substantially larger than those that would be found by including all distributors in the computation and providing the average of their income.

The proposed consent order prohibits Roy Brog from making any representation regarding any benefit in preventing cardiovascular or other disease through the use of a food product, any nutritional or other health related attribute of such product, or any expected shelf life of such product, unless at the time of such representation he possesses and relies upon reliable and competent scientific evidence that substantiates such representation.

The proposed consent order also would prohibit Roy Brog from representing as an average any computation of earning or sales of distributors of any product or service which is based upon less than all distributors, unless he discloses the fact that some distributors are excluded and the basis for such exclusion at the same time.

Finally, the proposed order would require Roy Brog to retain any substantiation required by the proposed order for three years, to notify the Commission of any change in his business affiliation for a four year period, to provide all his distributors with a copy of the order, and to file a compliance report within 60 days after service of the order.

The purpose of this analysis is to facilities public comment on the proposed order; it is not intended to constitute an official interpretation of the agreement and proposed order or to modify in any way their terms.

Emily H. Rock,

Secretary.

[FR Doc. 86-9437 Filed 4-25-86; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 925

Public Comment and Opportunity for Public Hearing on Proposed Modifications of the Missouri Permanent Regulatory Program

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

ACTION: Proposed rule.

SUMMARY: OSMRE is announcing procedures for the public comment period and for a public hearing on the substantive adequacy of proposed program amendments submitted by the State of Missouri as modifications to the Missouri Permanent Regulatory Program (hereinafter referred to as the Missouri program) under the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The amendments pertain to the State's blaster training, examination and certification provisions; revegetation requirements, bond forfeitures; penalty assessments, and inspection and enforcement activities.

This notice sets forth the times and locations that the Missouri program and the proposed amendments are available for public inspection, the comment period during which interested persons may submit written comment on the proposed program elements, and the procedures that will be followed regarding the public hearing.

DATE: Written comments not received on or before 4:00 p.m., May 28, 1986, will not necessarily be considered.

If requested, a public hearing on the proposed modifications will be held on May 23, 1986, beginning at 10:00 a.m. at the location shown below under **ADDRESSES.**

ADDRESS: Written comments should be mailed or hand delivered to: Mr. William J. Kovacic, Office of Surface Mining Reclamation and Enforcement, Kansas City Field Office, 1103 Grand Avenue, Room 502, Kansas City, Missouri 64106.

If a public hearing is held its location will be at the Federal Building, 601 E. 12th, Kansas City, Missouri.

FOR FURTHER INFORMATION CONTACT: Mr. William J. Kovacic, Field Office Director, Office of Surface Mining Reclamation and Enforcement, Kansas City Field Office, 1103 Grand Avenue, Room 502, Kansas City, Missouri 64106, Telephone: (816) 374-5527.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Availability of Copies

Copies of the Missouri program, the proposed modifications to the program, a listing of any scheduled public meeting and all written comments received in response to this notice will be available for review at the OSMRE offices and the office of the State regulatory authority listed below, Monday through Friday, 8:00 a.m. to 4:00 p.m., excluding holidays. Each requester may receive, free of charge, one single copy of the proposed amendments by contacting the OSMRE Kansas City Field Office.

Kansas City Field Office, Office of Surface Mining Reclamation and Enforcement, 1103 Grand Avenue, Room 502, Kansas City, Missouri 64106.

Office of Surface Mining Reclamation and Enforcement, Room 5315 A, 1100 L Street, NW., Washington, D.C. 20240.

Missouri Land Reclamation Commission, 1026-D Northeast Drive, Jefferson City, Missouri 65101.

Written Comments

Written comments should be specific, pertain only to the issues proposed in this rulemaking, and include explanations in support of the commenter's recommendations. Comments received after the time indicated under **DATES** or at locations other than the OSMRE Kansas City, Missouri, Field Office will not necessarily be considered and included in the Administrative Record for the proposed rulemaking.

Public Hearing

Persons wishing to comment at the public hearing should contact the person listed under **FOR FURTHER INFORMATION CONTACT** by the close of business May 19, 1986. If no one requests to comment a public hearing will not be held.

If only one person requests to comment, a public meeting, rather than a public hearing, may be held and the results of the meeting included in the Administrative Record.

Filing of a written statement at the time of the hearing is requested and will greatly assist the transcriber. Submission of written statements in advance of the hearing will allow OSMRE officials to prepare appropriate questions.

The public hearing will continue on the specified date until all persons scheduled to comment have been heard. Persons in the audience who have not been scheduled to comment and wish to do so will be heard following those scheduled. The hearing will end after all persons scheduled to comment and

persons present in the audience who wish to comment have been heard.

Public Meeting

Persons wishing to meet with the OSMRE representatives to discuss the proposed amendments may request a meeting at that OSMRE Field Office listed under **FOR FURTHER INFORMATION CONTACT.**

All such meetings are open to the public and, if possible notices of meetings will be posted in advance in the Administrative Record. A written summary of each public meeting will be made a part of the Administrative Record.

II. Background on the Missouri State Program

On November 21, 1980, the Secretary of the Interior conditionally approved the Missouri program under SMCRA for the regulation of surface coal mining operations in the State (45 FR 77027).

Information pertinent to the general background, revisions, modifications, and amendments to the proposed permanent program submission, as well as the Secretary's findings, the disposition of comments and a detailed explanation of the conditions of approval of the Missouri program can be found in the November 21, 1980 **Federal Register** (45 FR 77027). Subsequent actions concerning the conditions of approval and program amendments are identified at 30 CFR 925.10, 30 CFR 925.15, and 30 CFR 925.16.

III. Supplementary Information

On June 18, 1985, Missouri submitted to OSMRE draft new rules for training, examination and certification of blasters; draft proposed amendments on revegetation requirements, penalty assessments and regulatory program inspection and enforcement activities. Receipt of the draft documents was published in the **Federal Register** on July 31, 1985 (50 FR 30957).

The draft proposed revisions to the Missouri rules were as follows:

10 CSR 40–2.090 Revegetation Requirements

The amendment would update interim regulations by incorporating permanent program standards for measuring revegetation success.

10 CSR 40–3.160 Training, Examination and Certification of Blasters

The amendment would establish requirements and procedures that will be followed for training, examination and certification of persons engaging in or directly responsible for the use of explosives in surface coal mining operations.

10 CSR 40–8.030 Permanent Program Inspection and Enforcement

The amendment would clarify, revise and set forth requirements for permanent program inspection and enforcement. Specifically, the amendment concerns the state requirements for conducting partial inspections of each inactive surface coal mining and reclamation operation; it would allow aerial inspections to be conducted in the inspection of surface coal mining and reclamation sites; allow for the extension of the abatement period beyond 90 days under certain circumstances; and allow the waiving of informal public hearing when certain requirements are met.

10 CSR 40–8.040 Penalty Assessment

The amendment would clarify, revise and set forth the method of assessment of penalties for violation of the regulatory program. Specifically, the amendment revises procedures for assessing civil penalties and establishes procedures for conducting informal assessment conferences.

IV. Submission of Program Amendment

By a letter dated March 13, 1986, the Missouri Land Reclamation Commission formally submitted the proposed regulatory amendments pursuant to 30 CFR 732.17, blaster training, examination, and certification; revegetation requirements, penalty assessments and inspection and enforcement activities for OSMRE's approval. The actual rule changes submitted for approval were adopted by the Missouri Land Reclamation Commission on October 23, 1985, but implementation of the revised rules is pending until approved by OSMRE. The State regulations at 10 CSR 40–7.031(3)(B) Bond Forfeiture, published in the Missouri Register on October 7, 1985, as an Emergency Amendment, were also submitted on March 13, 1986. In the amendment, Missouri proposes to amend its approved program by supplementing its regulations at 10 CSR 40–3.160 Training, Examination, and Certification of Blasters. Additionally, the State proposes to amend its program by revising 10 CSR 40–2.090 Revegetation Requirements (Interim Program), 10 CSR–40.8.030 Permanent Program Inspection and Enforcement, and 10 CSR 40–8.040 Penalty Assessment.

Therefore, the Director is seeking public comment on the adequacy of the proposed program amendments. If OSMRE finds the amendments in accordance with SMCRA and no less effective than the Federal regulations, they will be approved and become part of the Missouri program.

V. Additional Determinations

1. *Compliance with the National Environmental Policy Act:* The Secretary has determined that, pursuant to Section 702(d) of SMCRA, 30 U.S.C. 1291(d), no environmental impact statement need be prepared on this rulemaking.

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

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

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

List of Subjects in 30 CFR Part 925

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

Dated: April 21, 1986.

James W. Workman,

Deputy Director, Operations and Technical Services.

[FR Doc. 86–9395 Filed 4–25–86; 8:45 am]

BILLING CODE 4310-05-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 100

[CGD3 86–07]

Empire State Regatta, Albany, NY

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rule making.

SUMMARY: The Coast Guard is considering a proposal to establish Special Local Regulations for the Empire State Regatta which is sponsored by the Capital Rowing Club, Inc. of New Scotland, New York. The purpose of this regulation is to provide for the safety of participants and spectators on navigable waters during this event.

DATES: Comments must be received on or before May 28, 1986.

ADDRESSES: Comments should be mailed to Commander (b), Third Coast Guard District, Governors Island, New York, NY 10004–5098. The comments will be available for inspection and copying at the Boating Safety Office, Building 110, Governors Island, New York, NY. Normal office hours are between 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays. Comments may also be hand-delivered to this address.

FOR FURTHER INFORMATION CONTACT: Mr. Lucas A. Dlhopolsky, (212) 668–7974.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, data, or arguments. Persons submitting comments should include their names and addresses, identify this notice (CGD3 86–07) and the specific section of the proposal to which their comments apply and give reasons for each comment. Receipt of comments will be acknowledged if a stamped, self-addressed postcard or envelope is enclosed. The rules may be changed in light of comments received. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned, but one may be held if written requests for a hearing are received and it is determined that the opportunity to make oral presentations will aid the rulemaking process.

Drafting Information

The drafters of this notice are Mr. Lucas A. Dlhopolsky, Project Officer, Boating Safety Office, and Ms. MaryAnn Arisman, Project Attorney, Third Coast Guard District Legal Office.

Discussion of Proposed Regulations:

This is the second consecutive year that the Empire State Regatta will be held in the same location on the Hudson River on the second weekend in June. The sponsor plans to hold this three day event annually on the first or second weekend in June. In preparation for the event, floats used to mark the race course are connected to anchors that were installed in the rock river bottom in 1985. In order to make use of these permanently set anchors, the event must be held in the same location each year. Because of the annual nature of this event, the Coast Guard proposes to promulgate a permanent amendment to Part 100 of Title 33, Code of Federal Regulations. Each year the Coast Guard will provide the public full and adequate notice of the annual crew race event by publication in the Third District Local Notice to Mariners and in a **Federal Register** notice. The Empire State Regatta is sponsored by the Capital Rowing Club, Inc. of New Scotland, New York on behalf of the United States Rowing Association. This crew racing event will serve as the 1986 Northeast Regional Championships. The races will be held on a 2000 meter course on the Hudson River adjacent to Albany, New York. Approximately 250 crew shells, ranging in size from 26 to 68 feet in length will race in heats throughout the day from 9:00 a.m. to 6:00 p.m. on June 14 and 15, 1986. The race course will consist of six lanes marked by seven rows of buoys anchored to the bottom of the river. Small styrofoam buoys marked with retroreflective tape will be set in the river on June 13, 1986 and will be removed overnight on June 15 into early June 16, 1986. The sponsor shall arange for several vessels which will assist the Coast Guard Patrol Commander in providing for the safety of the event and spectator craft. The Coast Guard intends to restrict vessel movement within this section of the Hudson River during this event to provide for the safety of the participants and spectators on navigable waters. Vessels less than 20 meters in length will be allowed to transit the regulated area at nowake speeds at specified intervals (approximately every two hours) throughout each race day as directed by the Coast Guard Patrol Commander. Larger vessels will not be allowed to pass through the regulated area at any time during the effective period unless in an emergency and authorized by the Coast Guard Patrol Commander. The Coast Guard Captain of the Port of New York will again, as last year, contact the numerous commercial facilities along the Hudson River north of the regulated area to ask their cooperation in scheduling any vessel transits so as not to interfere with this event. Mariners are urged to use extreme caution when transiting the regulated area. The Coast Guard will issue a safety voice broadcast and this regulation will be published in the Local Notice To Mariners to advise the general public and commercial users on the Hudson River of the event.

Economic Assessment And Certification

This proposed regulation is considered to be non-major under Executive Order 12291 on Federal Regulation and nonsignificant under Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979). The economic impact of this proposal is expected to be so minimal that a full regulatory evaluation is unnecessary. This event will draw a large spectator crowd along the shores of the Hudson River which should compensate certain area merchants for the inconvenience of having navigation restricted. Smaller craft will be allowed to transit the regulated area at designated times during each race day and after the conclusion of each day's racing. In 1985 a survey of river traffic users indicated that any inconvenience to waterway transportation would be minimal. In fact most commercial marine interests successfully adjusted their schedules to avoid transiting this area last year during the effective period of the regulation which was from 6:00 a.m. on June 7 through 6:00 a.m. on June 10, 1985.

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

List of Subjects in 33 CFR Part 100

Marine safety, Navigation (water).

Proposed Regulation:

In consideration of the foregoing, the Coast Guard proposes to amend Part 100 of Title 33, Code of Federal Regulations as follows:

PART 100—[AMENDED]

1. The authority citation for Part 100 continues to read as follows:

Authority: 33 U.S.C. 1233; 49 CFR 1.46 and 33 CFR 100.35.

2. Part 100 is amended by adding § 100.308 to read as follows:

§ 100.308 Empire State Regatta, Albany, New York.

(a) *Regulated Area.* That section of the Hudson River between the I–90 Interchange Bridge on the north and the northern end of Culver Dike on the south.

(b) *Effective Period.* This regulation will be effective from 6:00 a.m. on June 13, 1986 through 6:00 a.m. on June 16, 1986 and thereafter annually on the first or second weekend (Friday, Saturday, Sunday into early Monday) in June as published in the Third District Local

Notice to Mariners and in a **Federal Register** notice.

(c) *Special Local Regulations.* (1) The regulated area shall be intermittently closed to all vessel traffic from 6:00 a.m. on Friday to 6:00 a.m. on Monday except as specified below or as directed by the Coast Guard Patrol Commander.

(2) Vessels greater than 20 meters in length shall not transit the regulated area at any time during the effective period unless allowed to do so by the Coast Guard Patrol Commander.

(3) Vessels less than 20 meters in length may transit the regulated area only if escorted by an official patrol vessel. From 9:00 a.m. through 6:00 p.m. on Saturday and Sunday, official patrol vessels will escort transiting vessels less than 20 meters at specified intervals (approximately every two hours) as directed by the Coast Guard Patrol Commander. At all other times, the regatta sponsor shall provide a sufficient number of escort vessels to ensure timely transits for vessels less than 20 meters.

(4) Unless otherwise directed by the Coast Guard Patrol Commander, transiting vessels shall: proceed at no-wake speeds, remain clear of the race course area as marked by the sponsor-provided buoys, not interfere with races or any shells in the area, make no stops and keep to the eastern edge of the Hudson River.

(5) Official patrol vessels include Coast Guard and Coast Guard Auxiliary vessels, New York State and local police boats and other vessels so designated by the regatta sponsor or Coast Guard Patrol Commander.

(6) No person or vessel may enter or remain in the regulated area during the effective period unless participating in the event, or authorized to be there by the sponsor or Coast Guard patrol personnel.

(7) All persons and vessels shall comply with the instructions of U.S. Coast Guard patrol personnel. Upon hearing five or more blasts from a U.S. Coast Guard vessel, The operator of a vessel shall stop immediately and proceed as directed. U.S. Coast Guard patrol personnel include commissioned, warrant and petty officers of the Coast Guard. Members of the Coast Guard Auxiliary may be present to inform vessel operators of this regulation and other applicable laws.

(8) For any violation of this regulation, the following maximum penalties are authorized by law:

(i) $500 for any person in charge of the navigation of a vessel.

(ii) $500 for the owner of vessel actually on board.

(iii) $250 for any person.

(iv) Suspension or revocation of a license for a licensed officer.

Dated: April 17, 1986.

P.A. Yost,

Vice Admiral, U.S. Coast Guard, Commander, Third Coast Guard District.

[FR Doc. 86-9435 Filed 4-25-86; 8:45 am]

BILLING CODE 4910-14-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 16

[FRL-2988-1]

Privacy Act of 1974; Exemptions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to amend its regulations implementing the Privacy Act of 1974 in two ways. First, EPA proposes to add a new general exemptions section to its regulations. The proposed new section will exempt from compliance with certain provisions of the Privacy Act of 1974 the system of records called "EPA–4 OIG Criminal Investigative Index and Files—EPA/OIG," maintained by the Office of Investigations of the Office of Inspector General (OIG), and "EPA–17 NEIC Criminal Investigative Index and Files—EPA/NEIC/OCI," maintained by the Office of Criminal Investigations (OCI) of the National Enforcement Investigations Center (NEIC). A general exemption for these systems or records will help maintain the efficiency and integrity of investigations conducted by the OIG and the NEIC.

Second, EPA proposes to amend the specific exemptions section of its regulations, which currently exempts from compliance with certain provisions of the Privacy Act of 1974 three systems of records. The proposed amendment will clarify EPA's reasons for exempting these three systems of records. The proposed amendment will also make minor corrections to the names of two of the three systems of records referenced in the regulations to conform to the information contained in EPA's notice of revisions to these systems of records published elsewhere in today's **Federal Register.** In addition, the proposed amendment will exempt from compliance with certain provisions of the Privacy Act of 1974 the new system of records called "EPA–17 NEIC Criminal Investigative Index and Files—EPA/NEIC/OCI," maintained by the NEIC's office of Criminal Investigations. EPA's notice of this new system of records is published elsewhere in today's **Federal Register.** Finally, the proposed amendment will exempt from compliance with certain provisions of the Privacy Act of 1974 an existing system of records containing some records that are properly classified by other Federal agencies at levels up to and including "secret." EPA's notice of revisions to this system of records is published elsewhere in today's **Federal Register.**

DATE: Comments must be submitted on or before May 28, 1986.

ADDRESS: Send written comments to: Connie Tasker, Chief, Information Management Branch, Information Management and Services Division (PM–211D), Environmental Protection Agency, 401 M Street SW Washington, D.C. 20460.

Comments received on this proposed rule will be available for reviewing and copying from 8:00 a.m. to 4:00 p.m., Monday through Friday, excluding legal holidays, in Rm. M2114, Environmental Protection Agency, 401 M Street SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Connie Tasker, (202) 475–8675.

SUPPLEMENTARY INFORMATION: As authorized by the general exemption provisions of 5 U.S.C. 552a(j)(2), EPA proposed to amend its regulations implementing the Privacy Act of 1974, which are published at 40 CFR Part 16, by adding a new § 16.13 to exempt from compliance with certain provisions of the Privacy Act of 1974 the systems of records called "EPA–4 OIG Criminal Investigative Index and Files—EPA/OIG," maintained by the OIG's Office of Investigations, and "EPA–17 NEIC Criminal Investigative Index and Files—EPA/NEIC/OIC," maintained by the NEIC's Office of Criminal Investigations.

The exemption is consistent with the investigation and law enforcement responsibilities of the OIG's Office of Investigations and the NEIC's Office of Criminal Investigations, components of EPA which perform as their principal function activities pertaining to the enforcement of criminal laws. Authority for the criminal law enforcement activities of the OIG's Office of Investigations is the Inspector General Act of 1978, 5 U.S.C. app. Authority for the criminal law enforcement activities of the NEIC's Office of Criminal Investigations is 28 U.S.C. 533, with appointment letter from Benjamin Civiletti, Attorney General, to Douglas Costle, Administrator, EPA, dated January 16, 1981. Exempting these systems of records from compliance with certain provisions of the Privacy

Act of 1974, pursuant to the general exemption provisions of 5 U.S.C. 552a(j)(2), will not only protect investigative information and confidential sources, but will also prevent the subject of investigations from frustrating the investigative process. The exemption will apply only to information contained in the EPA–4 system of records, which is indexed by the names of individuals and entities that are the subjects of investigations by the OIG's Office of Investigations, and the EPA–17 system of records, which is indexed by the names of individuals and entities that are the subjects of investigations by the NEIC's Office of Criminal Investigations, and only to the extent that these systems of records contain criminal law enforcement material.

EPA also proposed to amend the specific exemptions section of its regulations implementing the Privacy Act of 1974, which is published at 40 CFR 16.14. As authorized by the specific exemption provisions of 5 U.S.C. 552a (k)(2) and (k)(5), EPA published a final rule in the **Federal Register** of November 19, 1975 (40 FR 53582) exempting from compliance with certain provisions of the Privacy Act of 1974 three systems of records. The proposed amendment will explain EPA's reasons for exempting these three systems of records from such provisions. The proposed amendment will also make minor corrections to the names of two of the systems of records referenced in § 16.14. What was formerly called "EPA–4 Inspection Branch Reports—EPA" is now called "EPA–4 OIG Criminal Investigative Index and Files—EPA/OIG," and what was formerly called "EPA–5 Personnel Security File System—EPA" is now called "EPA–5 OIG Personnel Security Files—EPA/OIG." As corrected, the names of these two systems of records will conform to the information contained in EPA's notice of revisions to these systems of records published elsewhere in today's **Federal Register**.

In addition, as authorized by the specific exemption provisons of 5 U.S.C. 552a(k)(2), the proposed amendment will exempt from certain provisions of the Privacy Act of 1974 the new system of records called "EPA–17 NEIC Criminal Investigative Index and Files—EPA/NEIC/OCI." This system of records consists of investigatory material complied and maintained by the NEIC's Office of Criminal Investigations for law enforcement purposes. EPA's notice of this new system of records is published elsewhere in today's **Federal Register**.

Finally, as authorized by the specific exemption provisions of 5 U.S.C. 552a(k)(1), the proposed amendment will add a new § 16.14(c) to exempt from certain provisions of the Privacy Act of 1974 the existing system of records called "EPA–5 OIG Personnel Security Files—EPA/OIG," which contains some records that are classified by other Federal agencies at levels up to and including "secret." Those records are specifically authorized under criteria established by Executive Order 12356 to be kept secret in the interest of national defense or foreign policy and are in fact properly classified by other Federal agencies pursuant to that Executive Order. EPA's notice of revisions to this system of records is published elsewhere in today's **Federal Register**.

Executive Order 12291

Under Executive Order 12291, EPA is required to judge whether a regulation is "major" and therefore subject to the regulatory impact analysis requirements of the Executive Order. Major rules are those which impose a cost on the economy of $100 million a year or more or have certain other economic impacts. I have determined that this proposed rule is not "major" and, therefore, is not subject to the Executive order. This proposed rule was submitted to the Office of Management and Budget (OMB) before publication, as required by the Executive order.

Environmental Impact Statement

This proposed rule does not affect the environment. An Environmental Impact Statement is not required under the National Environmental Policy Act of 1969.

Paperwork Reduction Act

This proposed rule does not constitute an information collection request within the meaning of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Therefore, this proposed rule is not subject to the requirements of the Paperwork Reduction Act of 1980.

Regulatory Flexibility Act

Section 603 of the Regulatory Flexibility Act, 5 U.S.C. 603, requires EPA to prepare and make available for comment an initial regulatory flexibility analysis in connection with any rulemaking for which EPA must publish a general notice of proposed rulemaking. The initial regulatory flexibility analysis must describe the impact of the proposed rule on small business entities.

Section 605(b) of the Act, however, provides that section 603 of the Act "shall not apply to any proposed or final rule if the head of the Agency certifies that the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities." This rule, which exempts from certain provisions of the Privacy Act of 1974 four EPA systems of records, will not produce any economic impact on any businesses, large or small. Accordingly, under section 605(b) of the Act, I hereby certify that this rule will not, if promulgated, have significant economic impact on a substantial number of small entities. In accordance with section 605(b) of the Act, I am providing a copy of this certification and statement to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 40 CFR Part 16

Privacy.

Dated: April 17, 1986.

Lee M. Thomas,

Administrator.

PART 16—[AMENDED]

Therefore, it is proposed that 40 CFR Part 16 be amended as follows:

1. The authority citation for Part 16 continues to read as follows:

Authority: 5 U.S.C. 552a.

2. Section 16.13 is added to read as follows:

§ 16.13 General exemptions.

(a) *Systems of records affected.*

EPA–4 OIG Criminal Investigative Index and Files—EPA/OIG.

EPA–17 NEIC Criminal Investigative Index and Files—EPA/NEIC/OCI.

(b) *Authority.* Under 5 U.S.C. 552a(j)(2), the head of any agency may by rule exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, if the system of records is maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws and which consists of:

(1) Information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status;

(2) Information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an identifiable individual; or

(3) Reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

(c) *Scope of exemption.* (1) The EPA–4 system of records identified in § 16.13(a) is maintained by the Office of Investigations of the Office of Inspector General (OIG), a component of EPA which performs as its principal function activities pertaining to the enforcement of criminal laws. Authority for the criminal law enforcement activities of the OIG's Office of Investigations is the Inspector General Act of 1978, 5 U.S.C. app.

(2) The EPA–17 system of records identified in § 16.13(a) is maintained by the Office of Criminal Investigations (OCI) of the National Enforcement Investigations Center (NEIC), a component of EPA which performs as its principal function activities pertaining to the enforcement of criminal laws. Authority for the criminal law enforcement activities of the NEIC's Office of Criminal Investigations is 28 U.S.C. 533, with appointment letter from Benjamin Civiletti, Attorney General, to Douglas Costle, Administrator, EPA, dated January 16, 1981.

(3) The systems of records identified in § 16.13(a) are exempted from the following provisions of the Privacy Act of 1974: 5 U.S.C. 552a(c) (3) and (4); (d); (e) (1), (2), (3), (4) (G), (H), and (I), (5), and (8); (f); and (g).

(4) To the extent that the exemption claimed under 5 U.S.C. 552a(j)(2) is held to be invalid for the systems of records identified in § 16.13(a), then an exemption under 5 U.S.C. 552a(k)(2) is claimed for these systems of records.

(d) *Reasons for exemption.* The systems of records identified in § 16.13(a) are exempted from the above provisions of the Privacy Act of 1974 for the following reasons:

(1) 5 U.S.C. 552a(c)(3) requires an agency to make the accounting of each disclosure of records available to the individual named in the record at his request. These accountings must state the date, nature, and purpose of each disclosure of a record and the name and address of the recipient. Accounting for each disclosure would alert the subjects of an investigation to the existence of the investigation and the fact that they are subjects of the investigation. The release of such information to the subjects of an investigation would provide them with significant information concerning the nature of the investigation, and could seriously impede or compromise the investigation, endanger the physical safety of confidential sources, witnesses, law enforcement personnel and their families, and lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

(2) 5 U.S.C. 552a(c)(4) requires an agency to inform any person or other agency about any correction or notation of dispute made by the agency in accordance with subsection (d) of the Act. Since EPA is claiming that these systems of records are exempt from subsection (d) of the Act, concerning access to records, this section is inapplicable and is exempted to the extent that these systems of records are exempted from subsection (d) of the Act.

(3) 5 U.S.C. 552a(d) requires an agency to permit an individual to gain access to records pertaining to him, to request amendment to such records, to request a review of an agency decision not to amend such records, and to contest the information contained in such records. Granting access to records in these systems of records could inform the subject of an investigation of an actual or potential criminal violation of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his activities, of the identity of confidential sources, witnesses, and law enforcement personnel, and could provide information to enable the subject to avoid detection or apprehension. Granting access to such information could seriously impede or compromise an investigation, endanger the physical safety of confidential sources, witnesses, law enforcement personnel and their families, lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony, and disclose investigation techniques and procedures. In addition, granting access to such information could disclose classified, security-sensitive, or confidential business information and could constitute an unwarranted invasion of the personal privacy of others.

(4) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required by statute or by executive order of the President. The application of this provision could impair investigations and law enforcement, because it is not always possible to detect the relevance or necessity of specific information in the early stages of an investigation. Relevance and necessity are often questions of judgment and timing, and it is only after the information is evaluated that the relevance and necessity of such information can be established. In addition during the course of the investigation, the investigator may obtain information which is incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segregated. Furthermore, during the course of the investigation, the investigator may obtain information concerning the violation of laws other than those which are within the scope of his jurisdiction. In the interest of effective law enforcement, the EPA investigators should retain this information, since it can aid in establishing patterns of criminal activity and can provide valuable leads for other law enforcement agencies.

(5) 5 U.S.C. 552a(e)(2) requires an agency to collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs. The application of this provision could impair investigations and law enforcement by alerting the subject of an investigation of the existence of the investigation, enabling the subject to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony. Moreover, in certain circumstances the subject of an investigation cannot be required to provide information to investigators, and information must be collected from other sources. Furthermore, it is often necessary to collect information from sources other than the subject of the investigation to verify the accuracy of the evidence collected.

(6) 5 U.S.C. 552a(e)(3) requires an agency to inform each person whom it asks to supply information, on a form that can be retained by the person, of the authority under which the information is sought and whether disclosure is mandatory or voluntary; of the principal purposes for which the information is intended to be used; of the routine uses which may be made of the information; and of the effects on the person, if any, of not providing all or any part of the requested information. The application of this provision could provide the subject of an investigation with substantial information about the nature of that investigation, which could interfere with the investigation. Moreover, providing such a notice to the subject of an investigation could seriously impede or compromise an undercover investigation by revealing its existence and could endanger the physical safety of confidential sources, witnesses, and investigators by revealing their identities.

(7) 5 U.S.C. 552a(e)(4)(G) and (H) require an agency to publish a **Federal Register** notice concerning its procedures for notifying an individual at his request if the system of records contains a record pertaining to him, how he can gain access to such a record, and how he can contest its content. Since EPA is claiming that these systems of records are exempt from subsection (f) of the Act, concerning agency rules, and subsection (d) of the Act, concerning access to records, these requirements are inapplicable and are exempted to the extent that these systems of records are exempted from subsections (f) and (d) of the Act. Although EPA is claiming exemption from these requirements,

EPA has published such a notice concerning its notification, access, and contest procedures because, under certain circumstances, EPA might decide it is appropriate for an individual to have access to all or a portion of his records in these systems of records.

(8) 5 U.S.C. 552a(e)(4)(I) requires an agency to publish a **Federal Register** notice concerning the categories of sources of records in the system of records. Exemption from this provision is necessary to protect the confidentiality of the sources of information, to protect the privacy and physical safety of confidential sources and witnesses, and to avoid the disclosure of investigative techniques and procedures. Although EPA is claiming exemption from this requirement, EPA has published such a notice in broad generic terms in the belief that this is all subsection (e)(4)(I) of the Act requires.

(9) 5 U.S.C. 552a(e)(5) requires an agency to maintain its records with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in making any determination about the individual. Since the Act defines "maintain" to include the collection of information, complying with this provision would prevent the collection of any data not shown to be accurate, relevant, timely, and complete at the moment it is collected. In collecting information for criminal law enforcement purposes, it is not possible to determine in advance what information is accurate, relevant, timely, and complete. Facts are first gathered and then placed into a logical order to prove or disprove objectively the criminal behavior of an individual. Material which may seem unrelated, irrelevant, or incomplete when collected may take on added meaning or significance as the investigation progresses. The restrictions of this provision could interfere with the preparation of a complete investigative report, thereby impeding effective law enforcement.

(10) 5 U.S.C. 552a(e)(8) requires an agency to make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record. Complying with this provision could prematurely reveal an ongoing criminal investigation to the subject of the investigation.

(11) 5 U.S.C. 552a(f)(1) requires an agency to promulgate rules which shall establish procedures whereby an individual can be notified in response to his request if any system of records named by the individual contains a record pertaining to him. The application of this provision could impede or compromise an investigation or prosecution if the subject of an investigation was able to use such rules to learn of the existence of an investigation before it could be completed. In addition, mere notice of the fact of an investigation could inform the subject or others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony. Since EPA is claiming that these systems of records are exempt from subsection (d) of the Act, concerning access to records, the requirements of subsections (f)(2) through (5) of the Act, concerning agency rules for obtaining access to such records, are inapplicable and are exempted to the extent that these systems of records are exempted from subsection (d) of the Act. Although EPA is claiming exemption from the requirements of subsection (f) of the Act, EPA has promulgated rules which establish Agency procedures because, under certain circumstances, it might be appropriate for an individual to have access to all or a portion of his records in these systems of records. These procedures are described elsewhere in this Part.

(12) 5 U.S.C. 552a(g) provides for civil remedies if an agency fails to comply with the requirements concerning access to records under subsections (d) (1) and (3) of the Act; maintenance of records under subsection (e)(5) of the Act; and any other provision of the Act, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual. Since EPA is claiming that these systems of records are exempt from subsections (c) (3) and (4), (d), (e) (1), (2), (3), (4) (G), (H), and (I), (5), and (8), and (f) of the Act, the provisions of subsection (g) of the Act are inapplicable and are exempted to the extent that these systems of records are exempted from those subsections of the Act.

(e) *Exempt records provided by another agency.* Individuals may not have access to records maintained by the EPA if such regulation that such records are subject to general exemption under 5 U.S.C. 552a(j). If an individual requests access to such exempt records, EPA will consult with the source agency.

(f) *Exempt records included in a nonexempt system of records.* All records obtained from a system of records which has been determined by regulation to be subject to general exemption under 5 U.S.C. 552a(j) retain their exempt status even if such records are also included in a system of records for which a general exemption has not been claimed.

3. Section 16.14 is revised to read as follows:

§ 16.14 Specific exemptions.

(a) *Exemption under 5 U.S.C. 552a(k)(2)*—(1) *Systems of records affected.*

EPA–2 General Personnel Records—EPA.

EPA–4 OIG Criminal Investigative Index and Files—EPA/OIG.

EPA–5 OIG Personnel Security Files—EPA/OIG.

EPA–17 NEIC Criminal Investigative Index and Files—EPA/NEIC/OCI.

(2) *Authority.* Under 5 U.S.C. 552a(k)(2), the head of any agency may by rule exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, if the system of records is investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2).

(3) *Scope of exemption.* (i) The systems of records identified in § 16.14(a)(1) are exempted from the following provisions of the Privacy Act of 1974, subject to the limitations set forth in 5 U.S.C. 552a(k)(2): 5 U.S.C. 552a(c)(3); (d); (e)(1), (4)(G), (H), and (I); and (f).

(ii) An individual is "denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material," only if the Agency actually uses the material in denying or proposing to deny such right, privilege, or benefit.

(iii) To the extent that records contained in the systems of records identified in § 16.14(a)(1) are maintained by the Office of Investigations of the OIG or by the Office of Criminal Investigations of the NEIC, components of EPA which perform as their principal function activities pertaining to the enforcement of criminal laws, then an exemption under 5 U.S.C. 552a(j)(2) is claimed for these records.

(4) *Reasons of exemption.* The systems of records identified in § 16.14(a)(1) are exempted from the above provisions of the Privacy Act of 1974 for the following reasons:

(i) 5 U.S.C. 552a(c)(3) requires an agency to make the accounting of each disclosure of records available to the individual named in the record at his request. These accountings must state the date, nature, and purpose of each disclosure of a record and the name and address of the recipient. Accounting for each disclosure would alert the subjects of an investigation to the existence of the investigation and the fact that they are subjects of the investigation. The release of such information to the subjects of an investigation would provide them with

significant information concerning the nature of the investigation, and could seriously impede or compromise the investigation, endanger the physical safety of confidential sources, witnesses, law enforcement personnel and their families, and lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony.

(ii) 5 U.S.C. 552a(d) requires an agency to permit an individual to gain access to records pertaining to him, to request amendment to such records, to request a review of an agency decision not to amend such records, and to contest the information contained in such records. Granting access to records in these systems of records could inform the subject of an investigation of an actual or potential criminal violation of the existence of that investigation, of the nature and scope of the information and evidence obtained as to his activities, of the identity of confidential sources, witnesses, and law enforcement personnel, and could provide information to enable the subject to avoid detection or apprehension. Granting access to such information could seriously impede or compromise an investigation, endanger the physical safety of confidential sources, witnesses, law enforcement personnel and their families, lead to the improper influencing of witnesses, the destruction of evidence, or the fabrication of testimony, and disclose investigative techniques and procedures. In addition, granting access to such information could disclose classified, security-sensitive, or confidential business information and could constitute an unwarranted invasion of the personal privacy of others.

(iii) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required by statute or by executive order of the President. The application of this provision could impair investigations and law enforcement, because it is not always possible to detect the relevance or necessity of specific information in the early stages of an investigation. Relevance and necessity are often questions of judgment and timing, and it is only after the information is evaluated that the relevance and necessity of such information can be established. In addition, during the course of the investigation, the investigator may obtain information which is incidental to the main purpose of the investigation but which may relate to matters under the investigative jurisdiction of another agency. Such information cannot readily be segreated. Furthermore, during the course of the investigation, the investigator may obtain information concerning the violation of laws other than those which are within the scope of his jurisdiction. In the interest of effective law enforcement, EPA investigators should retain this information, since it can aid in establishing patterns of criminal activity and can provide valuable leads for other law enforcement agencies.

(iv) 5 U.S.C. 552a(e)(4) (G) and (H) require an agency to publish a **Federal Register** notice concerning its procedures for notifying an individual at his request if the system of records contains a record pertaining to him, how he can gain access to such a record, and how he can contest its content. Since EPA is claiming that these systems of records are exempt from subsection (f) of the Act, concerning agency rules, and subsection (d) of the Act, concerning access to records, these requirements are inapplicable and are exempted to the extent that these systems of records are exempted from subsections (f) and (d) of the Act. Although EPA is claiming exemption from these requirements, EPA has published such a notice concerning its notification, access, and contest procedures because, under certain circumstances, EPA might decide it is appropriate for an individual to have access to all or a portion of his records in these systems of records.

(v) 5 U.S.C. 552a(e)(4)(I) requires an agency to publish a **Federal Register** notice concerning the categories of sources of records in the system or records. Exemption from this provision is necessary to protect the confidentiality of the sources of information, to protect the privacy and physical safety of confidential sources and witnesses, and to avoid the disclosure of investigative techniques and procedures. Although EPA is claiming exemption from this requirement, EPA has published such a notice in broad generic terms in the belief that this is all subsection (e)(4)(I) of the Act requires.

(vi) 5 U.S.C. 552a(f)(1) requires an agency to promulgate rules which shall establish procedures whereby an individual can be notified in response to his request if any system of records named by the individual contains a record pertaining to him. The application of this provision could impede or compromise an investigation or prosecution if the subject of an investigation was able to use such rules to learn of the existence of an investigation before it could be completed. In addition, mere notice of the fact of an investigation could inform the subject or others that their activities are under or may become the subject of an investigation and could enable the subjects to avoid detection or apprehension, to influence witnesses improperly, to destroy evidence, or to fabricate testimony. Since EPA is claiming that these systems of records are exempt from subsection (d) of the Act, concerning access to records, the requirements of subsections (f) (2) through (5) of the Act concerning agency rules for obtaining access to such records, are inapplicable and are exempted to the extent that these systems or records are exempted from subsection (d) of the Act. Although EPA is claiming exemption from the requirements of subsection (f), EPA has promulgated rules which establish Agency procedures because, under certain circumstances, it might be appropriate for an individual to have access to all or a portion of his records in these systems of records. These procedures are described elsewhere in this Part.

(b) *Exemption under 5 U.S.C. 552a(k)(5)*—(1) *Systems of records affected.*

EPA–2 General Personnel Records—EPA.

EPA–4 OIG Criminal Investigative Index and Files—EPA/OIG.

EPA–5 OIG Personnel Security Files—EPA/OIG.

(2) *Authority.* Under 5 U.S.C. 552a(k)(5), the head of any agency may by rule exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, if the system of records is investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to September 27, 1975, under an implied promise that the identity would be held in confidence.

(3) *Scope of exemption.* (i) The systems of records identified in § 16.14(b)(1) are exempted from the following provisions of the Privacy Act of 1974, subject to the limitations of 5 U.S.C. 552a(k)(5): 5 U.S.C. 552a (c)(3); (d); (e)(1), (4) (H) and (I); and (f) (2) through (5).

(ii) To the extent that records contained in the systems of records identified in § 16.14(b)(1) reveal a violation or potential violation of law, then an exemption under 5 U.S.C. 552a(k)(2) is also claimed for these records.

(4) *Reasons for exemption.* The systems of records identified in § 16.14(b)(1) are exempted from the above provisions of the Privacy Act of 1974 for the following reasons:

(i) 5 U.S.C. 552a(c)(3) requires an agency to make the accounting of each disclosure of records available to the individual naned in the record at his request. These accountings must state

the date, nature, and purpose of each disclosure of a record and the name and address of the recipient. Making such an accounting could cause the identity of a confidential source to be revealed, endangering the physical safety of the confidential source, and could impair the future ability of the EPA to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information.

(ii) 5 U.S.C. 552a(d) requires an agency to permit an individual to gain access to records pertaining to him, to request amendment to such records, to request a review of an agency decision not to amend such records, and to contest the information contained in such records. Granting such access could cause the identity of a confidential source to be revealed, endangering the physical safety of the confidential source, and could impair the future ability of the EPA to compile investigatory material for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information.

(iii) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required by statute or by executive order of the President. The application of this provision could impair investigations, because it is not always possible to detect the relevance or necessity of specific information in the early stages of an investigation. Relevance and necessity are often questions of judgment and timing, and it is only after the information is evaluated that the relevance and necessity of such information can be established.

(iv) 5 U.S.C. 552a(e)(4)(H) requires an agency to publish a **Federal Register** notice concerning its procedures for notifying an individual at his request how he can gain access to any record pertaining to him and how he can contest its content. Since EPA is claiming that these systems of records are exempt from subsections (f) (2) through (5) of the Act, concerning agency rules, and subsection (d) of the Act, concerning access to records, these requirements are inapplicable and are exempted to the extent that these systems of records are exempted from subsections (f) (2) through (5) and (d) of the Act. Although EPA is claiming exemption from these requirements, EPA has published such a notice concerning its access and contest procedures because, under certain circumstances, EPA might decide it is appropriate for an individual to have access to all or a portion of his records in these systems of records.

(v) 5 U.S.C. 552a(e)(4)(I) requires an agency to publish a **Federal Register** notice concerning the categories of sources of records in the system of records. Exemption from this provision is necessary to protect the confidentiality of the sources of information, to protect the privacy and physical safety of confidential sources, and to avoid the disclosure of investigative techniques and procedures. Although EPA is claiming exemption from this requirement, EPA has published such a notice in broad generic terms in the belief that this is all subsection (e)(4)(I) of the Act requires.

(vi) 5 U.S.C. 552a(f) (2) through (5) require an agency to promulgate rules for obtaining access to records. Since EPA is claiming that these systems of records are exempt from subsection (d) of the Act, concerning access to records, the requirements of subsections (f) (2) through (5) of the Act, concerning agency rules for obtaining access to such records, are inapplicable and are exempted to the extent that this system of records is exempted from subsection (d) of the Act. Although EPA is claiming exemption from the requirements of subsections (f) (2) through (5) of the Act, EPA has promulgated rules which establish Agency procedures because, under certain circumstances, it might be appropriate for an individual to have access to all or a portion of his records in this system of records. These procedures are described elsewhere in this Part.

(c) *Exemption under 5 U.S.C. 552a(k)(1).*—(1) *System of records affected.*

EPA–5 OIG Personnel Security Files—EPA/OIG.

(2) *Authority.* Under 5 U.S.C. 552a(k)(1), the head of any agency may by rule exempt any system of records within the agency from certain provisions of the Privacy Act of 1974, if the system of records is subject to the provisions of 5 U.S.C. 552(b)(1). A system of records is subject to the provisions of 5 U.S.C. 552(b)(1) if it contains records that are specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order. Executive Order 12356 establishes criteria for classifying records which are to be kept secret in the interest of national defense or foreign policy.

(3) *Scope of exemption.* To the extent that the system of records identified in § 16.14(c)(1) contains records provided by other Federal agencies that are specifically authorized under criteria established by Executive Order 12356 to be kept secret in the interest of national defense or foreign policy and are in fact properly classified by other Federal agencies pursuant to that Executive Order, the system of records is exempted from the following provisions of the Privacy Act of 1974: 5 U.S.C 552a (c)(3); (d); (e)(1), (4) (G), (H), and (I); and (f).

(4) *Reasons for exemption.* The system of records identified in § 16.14(c)(1) is exempted from the above provisions of the Privacy Act of 1974 for the following reasons:

(i) 5 U.S.C. 552a(c)(3) requires an agency to make the accounting of each disclosure of records available to the individual named in the record at his request. These accountings must state the date, nature, and purpose of each disclosure of a record and the name and address of the recipient. Making such an accounting could result in the release of properly classified information, which would compromise the national defense or disrupt foreign policy.

(ii) 5 U.S.C. 552a(d) requires an agency to permit an individual to gain access to records pertaining to him, to request amendment to such records, to request a review of an agency decision not to amend such records, and to contest the information contained in such records. Granting such access could cause the release of properly classified information, which would compromise the national defense or disrupt foreign policy.

(iii) 5 U.S.C. 552a(e)(1) requires each agency to maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required by statute or by executive order of the President. The application of this provision could impair personnel security investigations which use properly classified information, because it is not always possible to know the relevance or necessity of specific information in the early stages of an investigation. Relevance and necessity are often questions of judgment and timing, and it is only after the information is evaluated that the relevance and necessity of such information can be established.

(iv) 5 U.S.C. 552a(e)(4) (G) and (H) require an agency to publish a **Federal Register** notice concerning its procedures for notifying an individual at his request if the system of records

contains a record pertaining to him, how he can gain access to such a record, and how he can contest its content. Since EPA is claiming that this system of records is exempt from subsection (f) of the Act, concerning agency rules, and subsection (d) of the Act, concerning access to records, these requirements are inapplicable and are exempted to the extent that this system of records is exempted from subsections (f) and (d) of the Act. Although EPA is claiming exemption from these requirements, EPA has published such a notice concerning its notification, access, and contest procedures because, under certain circumstances, EPA might decide it is appropriate for an individual to have access to all or a portion of his records in this system of records.

(v) 5 U.S.C. 552a(e)(4)(I) requires an agency to publish a **Federal Register** notice concerning the categories of sources of records in the system of records. Exemption from this provision is necessary to prevent the release of properly classified information, which would compromise the national defense or disrupt foreign policy. Although EPA is claiming exemption from this requirement, EPA has published such a notice in broad generic terms in the belief that this is all subsection (e)(4)(I) of the Act requires.

(vi) 5 U.S.C. 552a(f)(1) requires an agency to promulgate rules which shall establish procedures whereby an individual can be notified in response to his request if any system of records named by the individual contains a record pertaining to him. The application of this provision could result in the release of properly classified information, which would compromise the national defense or disrupt foreign policy. Since EPA is claiming that this system of records is exempt from subsection (d) of the Act, concerning access to records, the requirements of subsections (f) (2) through (5) of the Act, concerning agency rules for obtaining access to such records, are inapplicable and are exempted to the extent that this system of records is exempted from subsection (d) of the Act. Although EPA is claiming exemption from the requirements of subsection (f) of the Act, EPA has promulgated rules which establish Agency procedures because, under certain circumstances, it might be appropriate for an individual to have access to all or a portion of his records in this system of records. These procedures are described elsewhere in this Part.

(d) *Exempt records provided by another agency.* Individuals may not have access to records maintained by the EPA if such records were provided by another agency which has determined by regulation that such records are subject to general exemption under 5 U.S.C. 552a(j) or specific exemption under 5 U.S.C. 552a(k). If an individual requests access to such exempt records, EPA will consult with the source agency.

(e) *Exempt records included in a nonexempt system of records.* All records obtained from a system of records which has been determined by regulation to be subject to specific exemption under 5 U.S.C. 552a(k) retain their exempt status even if such records are also included in a system of records for which a specific exemption has not been claimed.

[FR Doc. 86-9406 Filed 4-25-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 51 and 52

[FRL-3009-3]

Requirements for Implementation Plans; Surface Coal Mines and Fugitive Emissions; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of public comment period.

SUMMARY: On October 26, 1984, EPA proposed that fugitive emissions be included in threshold applicablility determinations of whether surface coal mines would be required to obtain air quality new source review permits (49 FR 43211). On February 28, 1986, EPA reopened this public comment period for 60 days, until April 29, 1986 (51 FR 7090).

Representatives of the surface coal mining industry have requested that EPA extend this public comment period, noting in part the need for additional time to complete studies. In response to those requests, I am hereby extending by 30 days the public comment period.

DATES: The close of public comment period is extended from April 29, 1986, to May 29, 1986.

ADDRESSES: Comments should be submitted (preferably in triplicate) to Central Docket Section (LE-131A), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Attention: Docket No. A-84-33.

FOR FURTHER INFORMATION CONTACT: Mr. Kirt Cox, U.S. Environmental Protection Agency (MD-15), Research Triangle Park, North Carolina 27711, telephone: 919-541-5591, FTS 629-5591.

Dated: April 18, 1986.

J. Craig Potter,

Assistant Administrator for Air and Radiation.

[FR Doc. 86-9405 Filed 4-25-86; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Parts 795 and 799

[OPTS-42033C; FRL-2983-8(a)]

Cresols; Proposed Testing Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Elsewhere in this issue of the **Federal Register**, EPA is issuing a final test rule establishing testing requirements under section 4(a) of the Toxic Substances Control Act (TSCA) for manufacturers and processors of cresols. Cresols is a chemical category consisting of three cresol isomers: *ortho*-cresol (CAS No. 95-48-7), *meta*-cresol (CAS No. 108-39-4), and *para*-cresol (CAS No. 106-44-5). In this document, EPA is proposing that certain TSCA test guidelines be utilized as the test standards for the required studies. EPA is also proposing that tests be submitted within specified time frames.

DATES: Submit written comment on or before June 12, 1986. If persons request time for oral comment by May 28, 1986, EPA will hold a public meeting on this proposed rule in Washington, DC. For further information on arranging to speak at the meeting, see Unit VI of this preamble.

ADDRESS: Submit written comments, identified by the document control number (OPTS-42033C), in triplicate to: TSCA Public Information Office (TS-793), Office of Pesticides and Toxic Substances, Environmental Protection Agency, Rm. E-108, 401 M St., SW., Washington, DC 20460.

A public version of the administrative record supporting this action (with any confidential business information deleted) is available for inspection at the above address from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

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

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the **Federal Register**, EPA is issuing a final test rule

under section 4(a) of TSCA to require testing of cresols for mutagenic effects, developmental toxicity, and reproductive effects. The Agency is proposing in this document the test standards to be used and the time frames for submission of the required test data.

I. Background

Elsewhere in this issue of the **Federal Register**, EPA is promulgating a Phase I final rule pursuant to TSCA section 4 that establishes testing requirements for manufacturers and processors of cresols. The Phase I rule specifies the following testing requirements for cresols: (1) Mutagenic effects studies (including tests for chromosomal aberrations, gene mutations, and cellular transformations) on specified cresol isomers; (2) developmental toxicity study with each cresol isomer; and (3) two-generation reproductive effects study with each cresol isomer.

Once this Phase I test rule becomes effective, manufacturers and processors of cresols would normally be required (under the two-phase test rule development process) to submit proposed study plans for each of these required studies and proposed schedules for both the initiation of testing and the submission of study data. (See 40 CFR 790.30, published in the **Federal Register** of May 17, 1985 (50 FR 20658).) EPA would review the submitted study plans and schedules and would thereafter issue them (with any necessary modifications) in a Phase II test rule proposal. This proposal would request public comment on the ability of the proposed study plans to ensure that the resulting data would be reliable and adequate. After evaluating and responding to public comment, EPA would adopt the study plans, including the reporting schedules, in a Phase II final rule as the required test standards and data submission deadlines. (See 40 CFR 790.32, published in the **Federal Register** of May 17, 1985 (50 FR 20659).)

However, in the case of the cresols test rule, which was initiated under the two-phase process, EPA has decided to propose the relevant TSCA test guidelines as the test standards (see Unit III below). In addition, EPA is proposing that the data from the required studies be submitted within certain time periods. These time periods will serve as the data submission deadlines required by TSCA section 4(b)(1) (see Unit IV below). The reasons for this change in the test rule development process for cresols are discussed below.

II. Change in the test rule development process

A. Test Standards and Data Submission Deadlines

TSCA section 4(b)(1) specifies that test rules shall include standards for the development of test data ("test standards") and deadlines for submission of test data. Under a two-phase test rule development process utilized by EPA since 1982 (47 FR 13012; March 26, 1982) and formally adopted in the fall of 1984 (49 FR 39774; October 10, 1984), test standards and data submission deadlines were to be adopted during the second phase of the rulemaking process. Upon issuance of the Phase I final rule, which established the effects and characteristics for which a given chemical substance must be tested, persons subject to the rule would be required by a specified date to submit study plans detailing the methodologies and protocols they intended to use to perform the required tests. Such study plans were to include proposed schedules for the initiation and completion of testing and submission of test data. (See 40 CFR 790.30 (a) and (c), published in the **Federal Register** of October 10, 1984 (49 FR 39774).) In the second phase, after consideration of public comment, the Agency would promulgate the Phase II final rule adopting the study plans (with any necessary modifications) as the test standards for the development of test data and deadlines for submission of test data.

In December 1983, the Natural Resources Defense Council (NRDC) and the Industrial Union Department of the American Federation of Labor-Congress of Industrial Organizations filed an action under TSCA section 20 which challenged, among other things, the use of the two-phase process. In an August 23, 1984 Opinion and Order, the Court found that utilization of the two-phase rulemaking process was permissible. However, the Court also held that the Agency was subject to a standard of promulgating test rules within a reasonable time frame. *NRDC* v. *EPA*, 595 F. Supp. 1255 (S.D.N.Y. 1984).

After the issuance of that Opinion, the Agency decided that to expedite development of section 4 test rules, it would utilize a single-phase rulemaking process for most test rules. In the document announcing this decision, EPA stated that the single-phase approach offers a number of advantages over the two-phase process (see 50 FR 20652, 20653; May 17, 1985). In this single-phase approach, the Agency proposes (in one document) not only the effects for which testing will be required, but also proposes pertinent TSCA test guidelines as the test standards and time frames for the submission of test data. After receiving and evaluating public comment on the proposed testing requirements, test guidelines, and data submission deadlines, EPA promulgates a final test rule.

This single-phase approach shortens the rulemaking period and expedites the initiation of required testing that would usually result from use of the two-phase rulemaking process. The single-phase process also eliminates the requirement under the two-phase approach for industry to submit test protocols for approval. Moreover, by allowing commenters to submit alternative testing methodologies during the comment period, the single-phase approach preserves the flexibility of the two-phase process.

These same advantages, i.e., expedited initiation of testing and the elimination of study plan submission requirements for persons subject to a Phase I rule, are factors considered by EPA in deciding to modify the rulemaking process for cresols. By proposing both pertinent TSCA test guidelines as the test standards and data submission deadlines at the time of issuance of the Phase I rule, EPA expects that the Phase II final rule will be issued 6 months sooner than would occur if the usual two-phase process was followed. Thus, required testing will be initiated on a more expedited basis. In addition, for each of the required tests for cresols, appropriate TSCA test guidelines are available (see Unit III below). Thus, EPA believes that there is no need for manufacturers and processors of cresols to develop study plans for approval independent of these TSCA guidelines.

B. Modifications to Requirements Under a Phase I Final Rule For Cresols

As indicated above, persons subject to the cresols Phase I final rule and who have notified EPA of their intent to test would normally be required to submit study plans and proposed data submission deadlines within a specified time of the final rule's effective date. (See 40 CFR 790.30(a) and (c), published in the **Federal Register** of May 17, 1985 (50 FR 20658).) However, because EPA is proposing certain TSCA test guidelines as the test standards and data submission deadlines, persons subject to the Phase I final rule are not required to submit proposed study plans for the required testing or proposed dates for the initiation and completion of that testing.

However, persons subject to the Phase I final rule for cresols are still

required to submit notices of intent to test or exemption applications in accordance with 40 CFR 790.25, published in the Federal Register of May 17, 1985 (50 FR 20657). Moreover, once the test standards are promulgated in the Phase II final rule, those persons who have notified EPA of their intent to test must submit study plans (which adhere to the promulgated test standards) no later than 30 days before the initiation of each required test.

III. Proposed Test Standards

The Phase I rule specifies that cresols be tested for mutagenic effects (including tests for chromosomal aberrations, gene mutations, and cellular transformations), development toxicity, and reproductive effects. The Agency is now proposing that this testing of cresols be conducted in accordance with specific guidelines set forth in Title 40 of the Code of Federal Regulations (CFR) as enumerated below. Test methods under new Parts 796, 797, and 798 were published in the Federal Register of September 27, 1985 (50 FR 39252). The health effects tests to be conducted are:

1. *Mutagenicity*: Chromosomal effects.
2. *In Vitro* Mammalian Cytogenetics test, which appears at 40 CFR 798.5375.
b. *In Vivo* Mammalian Bone Marrow Cytogenetics Tests: Chromosomal Analysis, which appears at 40 CFR 798.5385.
c. Rodent Dominant Lethal Assay, which appears at 40 CFR 798.5450.
2. *Mutagenicity*: Unscheduled DNA Synthesis in Mammalian Cells in Culture assay, which appears at 40 CFR 798.5550.
3. *Mutagenicity*: Gene mutations.
a. Detection of Gene Mutations in Somatic Cells in Culture assay, which appears at 40 CFR 798.5300.
b. Sex-linked Recessive Lethal Test in *Drosophila melanogaster*, which appears at 40 CFR 798.5275.
4. *Mutagenicity*: Cellular transformations. Morphologic Transformation of Mammalian Cells in Culture assay, which appears at 40 CFR 795.285.
5. *Developmental toxicity*: Developmental Toxicity Study, which appears at 40 CFR 798.4900.
6. *Reproductive effects*: Reproduction and Fertility Effects study, which appears at 40 CFR 798.4700.

EPA believes that the TSCA Health Effects Test Guidelines cited above, if properly followed, should produce adequate and reliable data. These guidelines describe methods for performing testing of chemical substance under TSCA. EPA reviews its TSCA test guidelines annually (see 47 FR 41857; September 22, 1982).

EPA has proposed in a separate Federal Register document (51 FR 1552; January 14, 1986), certain revisions to these TSCA guidelines to provide more explicit guidance on the necessary minimum elements for each study. These revisions will avoid repetitive chemical-by-chemical changes to the guidelines in their adoption as test standards for chemical-specific test rules. EPA is proposing that these modifications be adopted in the test standards for cresols.

The Agency believes that the TSCA test guidelines will provide relevant data to assess the potential human hazard resulting from exposure to cresols.

The chemical or physical properties, previous testing, specific manufacturing, use, disposal practices, and exposure patterns of a particular chemical, in some cases, will cause the Agency to make changes in TSCA guidelines which reflect the characteristics of a specific chemical. The changes made for the creosis in the guidelines and the justification for the use of these guidelines and for any changes are set forth below.

1. *In vitro mammalian cytogenetics test.* The *in vitro* cytogenetics test will detect structural chromosomal aberrations in cultured mammalian cells. For cresols, the solvent for the assay shall be dimethyl sulfoxide (DMSO) which was the solvent used for tesing the cresol isomers in previously conducted assays. In addition, the metabolic activation system for the assay shall be derived from Aroclor–1254 induced rat liver S–9 preparations because it is the system with the largest historical data base for use in this assay. Finally, the *in vitro* cytogenetic assay shall be performed in established cell lines or strains because of the historical data base available for these cell systems.

2. *In vivo mammalian bone marrow cytogenetics test.* The *in vivo* cytogenetics test is designed to detect structural chromosomal aberrations. For the use of cresols in this assay, the route of administration of the test substances shall be oral gavage. Furthermore, the test species shall be mice for the *in vivo* assay in order to allow species consistency among other required mutagenicity assays, i.e., rodent dominant lethal test, and also among upper-tier assays, i.e., heritable translocation assay, should they be required in the future.

3. *Rodent dominant lethal assay.* The rodent dominant lethal assay will determine whether or not a dominant lethal event is caused after exposure to a chemical substance. This dominant lethal event indicates that the test substance has affected germinal tissue of the test species. For cresols, the test substances shall be administered by oral gavage. Three dose levels shall be used. In addition, the test species shall be mice. Each male shall be mated to no more than two, and preferably to only one, female per mating interval. This is the optimum for this species. Further, females shall be left with the males for no longer than seven days, and mating shall continue for at least six weeks to ensure that the entire germ cell cycle is sampled.

4. *Unscheduled DNA synthesis in mammalian cells in culture.* This assay measures the repair of DNA damage induced by the test chemical. This assay shall be performed in primary cultures of rate hepatocytes because of the positive results obtained in this system with the equimixture of the isomers. In addition, the solvent used in the DNA damage assay shall be DMSO.

5. *Detection of gene mutations in somatic cells in culture.* This assay is used to detect possible mutations in mammalian cell culture systems induced by the chemical test substance. For cresols, the solvent used in this assay shall be DMSO. The metabolic activation system shall be derived from Aroclor–1254 induced rate liver S–9 preparations because it is the system with the largest historical data base for use in this assay. In addition, this assay shall be done in L5178Y cells because of a previous positive result in that cell system with the equimixture of the cresol isomers. Finally, a 4-hour exposure time shall be used because it is the standard exposure period recommended for this test.

6. *Sex-linked recessive lethal test in Drosophila melanogaster.* The sex-linked recessive lethal test using *Drosophila melanogaster* is designed to detect the occurrence of mutations, both point mutations and small deletions, in the germ line of the insect. For cresols, the oral route of administration shall be used in this assay. A concurrent negative control shall be included to ensure that any observed effects are a direct result of the chemical treatment. In addition, the results shall be confirmed in an independent assay because of the crucial nature of the results in determining any upper-tier mutagenicity testing in a subsequent test rule for cresols.

7. *Morphologic transformation of mammalian cells in culture.* This *in vitro* cellular transformation assay is a semi-quantitative assay for detection of the ability of chemical agents to morphologically alter cells in culture. Such transformation is associated with certain phenotypic changes such as loss of contact inhibition and the ability to form colonies in soft agar medium. The process by which these changes occur is

assumed to be closely related to the process of *in vivo* carcinogenesis. For cresols, *meta*-and *para*-cresol shall initially be tested in the cellular transformation assay performed without metabolic activation. *meta*- and *para*-Cresol shall be tested in the cellular transformation assay performed with metabolic activation only if they produce negative results in the cellular transformation assay without metabolic activation. *ortho*-Cresol shall only be tested in the cellular transformation assay performed with metabolic activation. This isomer has had negative results in a previously conducted cellular transformation assay without metabolic activation. Therefore, the next sequenced test is the cellular transformation assay with metabolic activation.

8. *Developmental toxicity study.* The developmental toxicity study is designed to provide information on the potential hazard to the unborn which may arise from exposure of the mother to the chemical test substance during pregnancy. Because of the large production and predicted widespread exposure of the human population to cresols, it was determined that cresols shall be tested for this effect. For cresols, the test substances shall be administered by oral gavage. In addition, the testing shall be performed in at least two mammalian species.

9. *Reproduction and fertility effects.* This guideline is designed to provide information concerning the effects of cresols on gonadal function, conception, parturition, and the growth and development of the offspring. The study can also give information about the effects of neonatal morbidity and mortality. It was determined that this test be required for cresols because of its substantial production, widespread use practices, and potential for widespread human exposure. For cresols, the test substance shall be administered by oral gavage.

IV. Reporting Requirements

EPA is proposing that all data developed under this rule be reported in accordance with its TSCA Good Laboratory Practice (GLP) standards, which appear in 40 CFR Part 792.

Further, test sponsors are required to submit individual study plans at least 30 days prior to beginning each study.

EPA is required by section 4(b)(1)(c) of TSCA to specify the time period during which persons subject to a test rule must submit test data. The Agency is proposing specific reporting requirements for each of the proposed test standards as follows:

1. The *in vitro* mammalian cytogenetics test shall be completed and final results submitted to the Agency within one year of the effective date of the final test rule.

2. The *in vivo* mammalian bone marrow cytogenetics test, if required, shall be completed and final results submitted to the Agency within one year of the effective date of the final test rule.

3. The rodent dominant lethal assay, if required, shall be completed and final results submitted to the Agency within two years of the effective date of the final test rule.

4. The unscheduled DNA synthesis in the mammalian cells in culture assay shall be completed and final results submitted to the Agency within one year of the effective date of the final test rule.

5. The detection of gene mutations in somatic cells in culture assay shall be completed and final results submitted to the Agency within one year of the effective date of the final test rule.

6. The sex-linked recessive lethal test in *Drosophila melanogaster*, if required, shall be completed and final results submitted to the Agency within two years of the effective date of the final test rule.

7. The morphologic transformation of mammalian cells in culture assay shall be completed and final results submitted to the Agency with one year of the effective date of the final test rule.

8. The development toxicity studies shall be completed and the final results submitted to the Agency within one year of the effective date of the final test rule.

9. The reproduction and fertility effects studies shall be completed and the final results submitted to the Agency within 29 months of the effective date of the final rule.

Interim progress reports shall be provided quarterly for each test. The progress reports shall begin 90 days after the effective date of the final Phase II test rule.

TSCA section 14(b) governs Agency disclosure of all test data submitted pursuant to section 4 of TSCA. Upon receipt of data required by this rule, the Agency will publish a notice of receipt within 15 days in the **Federal Register** as required by section 4(d). Test data received pursuant to this rule will be made available for public inspection by any person except in those cases where the Agency determines that confidential treatment must be accorded pursuant to section 14(b) of TSCA.

V. Issues for Comment

EPA invites comment on the use of the TSCA test guidelines and the chemical-specific modifications to these guidelines as the proposed test standards for the required testing of cresols. EPA also invites comment on the proposed schedule for the required testing.

VI. Public Meetings

If persons indicate to EPA that they wish to present oral comments on this proposed rule to EPA officials who are directly responsible for developing the rule and supporting analyses, EPA will hold a public meeting after the close of the public comment period in Washington, D.C. Persons who with to attend or to present comments at the meeting should call the TSCA Assistance Office (TAO): Toll Free: (800–424–9065); In Washington, DC: (544–1404); Outside the U.S.A. (Operator—202–544–1404), by May 28, 1986. A meeting will not be held if members of the public do not indicate that they wish to make oral presentations. While the meeting will be open to the public, active participation will be limited to those persons who arranged to present comments and to designated EPA participants. Attendees should call the TAO before making travel plans to verify whether a meeting will be held.

Should a meeting be held, the Agency will transcribe the meeting and include the written transcript in the public record. Participants are invited, but not required, to submit copies of their statements prior to or on the day of the meeting. All such written materials will become part of the EPA's record for this rulemaking.

VII. Public Record

EPA has established a record for this rulemaking [docket number (OPTS–42033C)]. This record includes basic information considered by the Agency in developing this proposal and appropriate **Federal Register** notices. The Agency will supplement the record with additional information as it is received.

This record includes the following information:

Supporting Documentation

(1) **Federal Register** notices pertaining to this proposed rule consisting of:

(a) Notice of final Phase I rule on cresols.

(b) Notice containing the ITC designation of cresols to the Priority List (42 FR 55026; October 12, 1977).

(c) Notice of proposed rule on cresols (48 FR 31812; July 11, 1983).

(d) Notice of final rule on EPA's TSCA Good Laboratory Practice Standards (48 FR 53922; November 29, 1984).

(e) Notice of final rule on test rule development and exemption procedures (49 FR 39774; October 10, 1984).

(f) Notice of final rule concerning data reimbursement (48 FR 41786; July 11, 1983).

(g) Notice of interim final rule on test rule development and exemption procedures (50 FR 20652; May 17, 1985).

(h) Notice of final rule on the C_9 Aromatic Hydrocarbon Fraction (50 FR 20662; May 17, 1985).

(i) Notice of final rule on mesityl oxide (50 FR 51857; December 20, 1985).

(2) Support documents consisting of:

(a) Cresols technical support document for proposed rule.

(b) Economic impact analysis of NPRM for cresols.

(c) Economic impact analysis of final test rule for cresols.

(3) Communications consisting of:

(a) Written public comments.

(b) Transcription of public meeting.

(c) Summaries of phone conversations.

(d) Meeting summaries.

(e) Reports—published and unpublished contractor's reports.

VIII. Other Regulatory Requirements

A. Executive Order 12291

Under Executive order 12291, EPA must judge whether a regulation is "Major" and therefore subject to the requirements of a Regulatory Impact Analysis. This test rule is not major because it does not meet any of the criteria set forth in section 1(b) of the Order. The economic analysis of the testing of cresols is discussed in the final test rule which appears elsewhere in this issue of the **Federal Register**.

B. Regulatory Flexibility Act

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

1. There is not a significant number of small businesses manufacturing cresols.

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

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

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

C. Paperwork Reduction Act

The Office of Management and Budget (OMB) has approved the information collection requirements contained in the proposed rule under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, and has assigned OMB control number 2070–0033. Comments on these requirements should be submitted to the Office of Information and Regulatory Affairs of OMB, 726 Jackson Place, NW.; Washington, DC 20503, marked "Attention . . . Desk Officer for EPA." The final rule package will respond to any OMB or public comments on the information collection requirements.

D. Comprehensive Environmental Response, Compensation and Liability Act ("Superfund")

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 U.S.C. 9601 *et seq.*, Pub. L. 96–510, December 10, 1980) requires that persons in charge of vessels or facilities from which hazardous substances have been released in quantities that are equal to or greater than the reportable quantities (RQs) immediately notify the National Response Center (NRC) of the release. (See CERCLA section 103(a), and 50 FR 13456; April 4, 1985.) The National Response Center can be notified at (800) 424–8802, except from the Washington, DC metropolitan area, where the telephone number for notification is (202) 426–2675. All designated hazardous substances will have an RQ of one pound until adjusted by regulation under CERCLA, unless such substances are already on the lost of CERCLA hazardous substances and have been assigned an RQ (see CERCLA section 102). Cresols have been assigned an RQ of 1,000 pounds.

List of Subjects in 40 CFR Parts 795 and 799

Testing, Environmental protection, Hazardous Substances, Chemicals, Recordkeeping and reporting requirements.

Dated: April 15, 1986.

John A. Moore,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, it is proposed that Subchapter R of Chapter I of Title 40 of the Code of Federal Regulations be amended as follows:

1. By adding Part 795, consisting at this time of § 795.285 under Subpart D, to read as follows:

PART 795—PROVISIONAL TEST GUIDELINES

Subparts A-C—[Reserved]

Subpart D—Provisional Health Effects Guidelines

Sec.

795.285 Morphologic transformation of cells in culture.

Authority: 15 U.S.C. 2603.

Subparts A-C—[Reserved]

Subpart D—Provisional Health Effects Guidelines

§ 795.285 Morphologic transformation of cells in culture.

(a) *Purpose. In vitro* assays for celluar transformation are semi-quantitative assays for the ability of chemical agents to morphologically alter (transform) cells in culture. Such transformation is associated with certain phenotypic changes such as loss of contact inhibition and the ability to form colonies in soft agar medium. The process by which these changes occur is assumed to be closely related to the process of *in vivo* carcinogenesis. Morphologically transformed cells appear as foci of dense, piled-up, altered cells on an underlying monolayer of normal cells. Three types of foci have been recognized. Type III foci appear to be most closely correlated with *in vivo* tumor formation. The ultimate criterion for morphologic transformation is the ability of the transformed cells to induce tumors when inoculated into appropriate hosts. Not all cells which appear to be morphologically transformed are capable of tumor formation. In general, there is reasonably good correlation between *in vitro* transformation and *in vivo* oncogenesis, although the correlation varies depending on the system being studied. These systems are believed to be reasonably good predictors of *in vivo* activity, and positive results are viewed as potential indications of *in vivo* carcinogenesis.

(b) *Definitions.* (1) Morphologic transformation is the acquisition of certain phenotypic characteristics most notably loss of contact inhibition and loss of anchorage dependence which are often but not always associated with the ability to induce tumors in appropriate hosts.

(2) Type III foci of transformed cells are multilayered aggregations of densely staining cells with random orientation and criss-cross arrays at the periphery of the aggregate. They appear as dark stained areas on a light staining background monolayer which is one-cell thick.

(c) *Reference substances.* Not applicable.

(d) *Test method*—(1) *Principle.* (i) Three systems for detecting chemically-induced morphologic transformation have been described. They are:

(A) Systems which employ cell lines (cells with an indefinite lifespan).

(B) Systems which employ cell strains (cells with a finite or limited lifespan).

(C) Systems which detect the interaction between chemicals and oncogenic viruses.

(ii) This study will employ an established cell line for detection of morphologic transformation.

(2) *Description.* Cells in culture are exposed to the test substance, both with and without metabolic activation, for a defined period of time. Cytotoxicity is determined by measuring the colony forming ability and growth rate of the cultures after the treatment period. At the end of the treatment period, cultures are maintained in growth medium for a sufficient period of time to allow near-optimal expression of tranformed foci.

(3) *Cells.* (i) Balb/c-3T3 mouse cells originally obtained from clone A–31 or its derivatives shall be used in the assay. Cells shall be checked for mycoplasm contamination prior to use in the assay and may be checked for karyotype.

(ii) Appropriate culture media and incubation conditions (culture vessels, CO_2 concentrations, temperature, and humidity) shall be used.

(4) *Metabolic activation.* Cells shall be exposed to test substance both in the presence and absence of a metabolic activation system. The metabolic activation system shall be derived from primary cultures of rat hepatocytes.

(5) *Control groups.* Positive and negative (untreated and vehicle) controls shall be included in each experiment. 3-Methylcholanthrene is an example of a positive control for experiments without metabolic activation. Dimethylnitrosamine is an example of a positive control in experiments with metabolic activation.

(6) *Test chemicals*—(i) *Vehicle.* Test agents shall be dissolved in serum-complete culture medium prior to treatment of the cells.

(ii) *Exposure concentrations.* Several concentrations (usually at least four) of the test substance shall be used. These shall be selected on the basis of a preliminary cytotoxicity assay performed both with and without metabolic activation. The highest concentration shall produce a low level of survival (approximately 10 to 20 percent) and the survival in the lowest concentration shall approximate that of the negative control.

(e) *Test performance.* (1) Cells shall be exposed to the test substance both with and without metabolic activation. Exposure shall be for 72 hours for experiments without metabolic activation and for 48 hours for experiments with metabolic activation unless different exposure times are justified by the investigator.

(2) At the end of the exposure period, cells shall be washed and cultured to determine viability and to allow for expression of transformation.

(3) At the end of the incubation period (generally four to six weeks), cells shall be fixed and stained, and the number of transformed (Type III) foci shall be enumerated.

(4) All results shall be confirmed in independent experiment.

(5) Tumorigenic potential of isolated morphologically transformed foci may be determined by inoculation into suitable hosts.

(f) *Data and report*—(1) *Treatment of results.* (i) Data shall be presented in tabular form. Individual colony counts for the treated and control groups shall be presented for both transformation and survival.

(ii) Survival and cloning efficiencies shall be given as a percentage of the controls. Transformation shall be expressed as a number of foci per dish, the number of dishes with transformed foci, and the transformed foci per number of surviving cells.

(2) *Statistical evaluation.* Data shall be evaluated by appropriate statistical methods.

(3) *Interpretation of results.* (i) There are several criteria for determining a positive result, one of which is a statistically significant concentration-related increase in the number of transformed foci. Another criterion may be based upon the detection of a reproducible and statistically significant positive response for at least one of the test substance concentrations.

(ii) A test substance which does not produce either a statistically significant concentration-related increase in the number of transformed foci or a statistically significant and reproducible positive response at any one of the test points is considered to be negative in this system.

(iii) Both biological and statistical significance should be considered together in the evaluation.

(4) *Test evaluation.* (i) Positive results for an *in vitro* mammalian cell transformation assay indicate that, under the test conditions, the test substance induces morphologic transformation in the cultured mammalian cells used.

(ii) Negative results indicate that, under the test conditions, the test substance does not induce morphologic transformation in the cultured mammalian cells used.

(5) *Test report.* In addition to the reporting recommendations as specified under Subpart J of 40 CFR Part 792, the following specific information shall be reported:

(i) Cell type used, including subclone designation and passage number; number of cell cultures; methods used for maintenance of cell cultures.

(ii) Rationale for selection of concentrations and number of cultures.

(iii) Test conditions: composition of media, CO_2 concentration, concentration of test substance, vehicle, incubation temperature, incubation time, duration of treatment, cell density during treatment, type of metabolic activation system, positive and negative controls, length of expression period (including number of cells seeded and subculture and feeding schedules, if appropriate).

(iv) Methods used to enumerate numbers of viable cells and transformed foci.

(v) Dose-response relationship, where possible.

(g) *References.* for additional background information on this test guideline, the following references should be consulted:

(1) Heidelberger, C., Freeman A.E., Pienta R.J., Sivak, A., Bertram, J.S., Casto, B.C., Dunkel, V.C., Francis, M.W., Kakunaga, T., Little, J.B., Schechtman, L.M. "Cell transformation by chemical agents—a review and analysis of the literature: a report of the U.S. Environmental Protection Agency Gene-Tox Program." *Mutation Research* 114:283–385, 1983.

(2) Kakunaga, T. "A quantitative system for assay of malignant transformation by carcinogens using a clone derived from Balb–3T3." *International Journal of Cancer* 12:463–473, 1973.

(3) Reznikoff, C.A., Bertram, J.S., Brankow, D.W., Heidelberger, C. "Quantitative and qualitative studies of chemical transformation of cloned C3H mouse embryo cells sensitive to post confluence inhibitions of cell division." *Cancer Research* 33:3239–3249, 1973.

(4) Reznikoff, C.A., Brankow, D.W., Heidelberger, C. "Establishment and characterization of a cloned line of C3H mouse embryo cells sensitive to post confluence inhibition of division." *Cancer research* 33:3231–3238, 1973.

(5) Sivak, A., Charest, M.C., Dudenko, L., Silveira, D.M., Simons, I., Wood, A.W. "Balb/c-3T3 cells as target cells for chemically induced neoplastic transformation." In: *Advances in modern environmental toxicology, mammalian cell transformation by chemical carcinogens,* Vol. I. Mishra, N., Dunkel, V. Mehlman, M., eds. Princeton Junction, NJ: Senate Press, pp. 133–180, 1981.

(6) Sivak, A., Tu, A.S. "Factors influencing neoplastic transformation by chemical carcinogens in Balb/c-3T3

cells." In: *The predictive value of short-term screening tests in carcinogenicity evaluation.* Williams, G.M., Kroes, R., Waaijers, H.W., Van de Poll, K.W., eds. Amsterdam, New York, Oxford: Elsevier/North Holland Biomedical Press, pp. 171–190, 1980.

(7) Williams, G.M. "Detection of chemical carcinogens by unscheduled DNA synthesis in rat liver primary cell culture." *Cancer Research* 37:1845–1851, 1977.

PART 799—[AMENDED]

2. Part 799 is amended as follows:

a. The authority citation containues to read as follows:

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

b. In § 799.1250 by adding paragraphs (c)(1) (ii) and (iii), (2) (ii) and (iii), (3) (ii) and (iii), (4) (ii) and (iii), and (5) (ii) and (iii), to read as follows:

§ 799.1250 Cresols.

* * * * *

(c) * * *

(1) * * *

(ii) *Test standard.* (A)(*1*) In vitro mammalian cytogenetics test. This test shall be conducted with cresols in accordance with § 798.5375 of this chapter and modifications specified in paragraph (c)(l)(ii)(A)(*2*) of this section.

(*2*) Test standard modifications. The following modifications to § 798.5375 of this chapter are required.

(*i*) The requirement under § 798.5375 of this chapter is modified so that cresols shall be tested in established cell lines or strains. The cell line or strain used shall be checked for *Mycoplasm* contamination.

(*ii*) The requirement under § 798.5375 of this chapter is modified so that cresols shall be dissolved in DMSO prior to treatment of the cells.

(*iii*) The requirement under § 798.5375 of this chapter is modified so that the metabolic activation system for the assay shall be derived from Aroclor-1254 induced rat liver S-9 preparations.

(*iv*) The requirement under § 798.5375 of this chapter is modified so that at least three concentrations of the test substance over a range adequate to define the response shall be tested. The highest test concentration tested with and without metabolic activation shall be five milligrams per milliliter or that dose which show evidence of cytotoxicity or reduced mitotic activity.

(B)(*1*) In vivo mammalian bone marrow cytogenetics test. This chromosomal analysis test shall be conducted with cresols in accordance with § 798.5385 of this chapter and modifications specified in paragraph (c)(1)(ii)(B)(*2*) of this section.

(*2*) Test standard modifications. The following modifications to § 798.5385 of this chapter is modified so that the mouse is the required test species.

(*ii*) The requirement under § 798.5385 of this chapter is modified so that the test substance shall be administered once only by oral gavage.

(*iii*) The requirement under § 798.5385 of this chapter is modified so that three dose levels shall be used. The highest dose tested shall be the maximum tolerated dose or that producing some indication of cytotoxicity, e.g., partical inhabition of mitosis, or shall be the highest dose attainable.

(C)(*1*) *Rodent dominant-lethal assay.* This assay shall be conducted with cresols in accordance with § 798.5450 of this chapter and modifications specified in paragraph (c)(1)(ii)(C)(*2*) of this section.

(*2*) *Test standard modifications.* The following modifications to § 798.5450 of this chapter are required.

(*i*) The requirement under § 798.5450 of this chapter is modified so that the mouse is the required test species.

(*ii*) The requirement under § 798.5450 of this chapter is modified so that the route of administration of the test substance shall be by oral gavage.

(*iii*) The requirement under § 798.5450 of this chapter is modified so that three dose levels shall be used. The highest dose shall produce signs of toxicity, e.g., slightly reduced fertility, or shall be the highest dose attainable.

(*iv*) The requirement under § 798.5450 of this chapter is modified so that each male shall be mated to no more than two, and preferably to only one, female per mating interval. Females shall be left with the males for no longer than seven days, and mating shall continue for at least six weeks.

(iii) *Reporting requirement.* (A) The chromosomal aberration tests shall be completed and the final results submitted to the Agency as follows:

(*1*) The *in vitro* mammalian cytogenetics test within one year of the effective date of the final test rule.

(*2*) The *in vivo* mammalian bone marrow cytogenetics test, if required, within one year of the effective date of the final test rule.

(*3*) The rodent dominant lethal assay, if required, within two years of the final test rule.

(B) Interim progress reports shall be provided quarterly, beginning 90 days after the effective date of the final Phase II test rule.

(2) * * *

(ii) *Test standard.* (A) (*1*) *Unscheduled DNA synthesis in mammalian cells in culture assay.* This assay shall be conducted with cresols in accordance with § 798.5550 of this chapter and modifications specified in paragraph (c)(2)(ii)(A)(*2*) of this section.

(*2*) *Test standards modifications.* The following modifications ot § 798.5550 of this chapter are required.

(*i*) The requirement under § 798.5550 of this chapter is modified so that primary cultures of rat hepatocytes shall be the type of cells used in this assay.

(*ii*) The requirement under § 798.5550 of this chapter is modified so that cresols shall be dissolved in DMSO prior to treatment of the cells.

(B)(*1*) *Detection of gene mutations in somatic cells in culture.* This assay shall be conducted with cresols in accordance with § 798.5300 of this chapter and modifications specific in paragraph (c)(2)(ii)(B)(*2*) of this section.

(*2*) *Test standard modifications.* The following modifications to § 798.5300 of this chapter are required.

(*i*) The requirement under § 798.5300 of this chapter is modified so that cresols shall be tested in L5178Y mouse lymphoma cells. Cells shall be checked for *Mycoplasma* contamination.

(*ii*) The requirement under § 798.5300 of this chapter is modified so that cresols shall be dissolved in DMSO prior to treatment of the cells. The final concentration of the vehicle shall not interfere with cells viability or growth rate.

(*iii*) The requirement under § 798.5300 of this chapter is modified so that the metabolic activation system shall be derived from the postmitochondrial fraction (S–9) of rat livers pretreated with Aroclor 1254.

(*iv*) The requirement under § 798.5300 of this chapter is modified so that exposure shall be for four hours unless a different exposure time is justified by the investigator.

(C)(*1*) *Sex-linked recessive lethal test in Drosophila melanogaster.* This test shall be conducted with cresols in accordance with § 798.5275 of this chapter and modifications specified in paragraph (c)(2)(ii)(C)(*2*) of this section.

(*2*) *Test standard modifications.* The following modifications of § 798.5275 of this chapter are required.

(*i*) The requirement under § 798.5275 of this chapter is modified so that the oral route of administration shall be used in this assay.

(*ii*) The requirement under § 798.5275 of this chapter is modified so that a concurrent negative control shall be included in this assay.

(*iii*) The requirement under § 798.5275 of this chapter is modified so that the results of this test shall be confirmed in an independent assay.

(iii) *Reporting requirements.* (A) The gene mutation tests shall be completed and final results submitted to the Agency as follows:

(*1*) The unscheduled DNA synthesis in mammalian cells in culture assay within one year of the effective date of the final test rule.

(*2*) The detection of gene mutations in somatic cells in culture assay within one year of the effective date of the final test rule.

(*3*) The sex-linked recessive lethal test in *Drosophila melanogaster*, if required, within two years of the effective date of the final test rule.

(B) Interim progress reports shall be provided quarterly, beginning 90 days after the effective date of the final Phase II test rule.

(3) * * *

(ii) *Test standard.*—(A) *Morphologic transformation of mammalian cells in culture.* This test shall be conducted with cresols in accordance with § 795.285 of this chapter and modifications specified in paragraph (c)(3)(ii)(B) of this section.

(B) *Test standard modifications.* The following modifications of § 795.285 of this chapter are required.

(*1*) The requirement under § 795.285 of this chapter is modified so that *meta*- and *para*-cresol shall initially be tested in this assay performed without metabolic activation. Only if they produce negative results in the assay performed without activation will *meta*- and *para*-cresol then be tested in the assay with metabolic activation.

(*2*) The requirement under § 795.285 of this chapter is modified so that *ortho*-cresol shall only be tested in this assay performed with metabolic activation.

(iii) *Reporting requirements.* (A) The morphologic transformation of mammalian cells in culture assay shall be completed and final results submitted to the Agency within one year of the effective date of the final test rule.

(B) Interim progress reports shall be provided quarterly, beginning 90 days after the effective date of the final Phase II test rule.

(4) * * *

(ii) *Test standard.*—(A) *Developmental toxicity.* This study shall be conducted with cresols in accordance with § 798.4900 of this chapter and modifications specified in paragraph (c)(4)(ii)(B) of this section.

(B) *Test standard modifications.* The following modifications to § 798.4900 of this chapter are required.

(*1*) The requirement under § 798.4900 of this chapter is modified so that the test substance shall be administered by oral gavage.

(*2*) The requirement under § 798.4900 of this chapter is modified so that at least two mammalian species shall be used in this study.

(iii) *Reporting requirements.* (A) The developmental toxicity study shall be completed and final results submitted to the Agency within one year of the effective date of the final test rule.

(B) Interim progress reports shall be provided quarterly, beginning 90 days after the effective date of the final Phase II test rule.

(5) * * *

(ii) *Test standard.*—(A) *Reproduction and fertility effects.* This study shall be conducted with cresols in accordance with § 798.4700 of this chapter and modifications specified in paragraph (c)(5)(ii)(B) of this section

(B) *Test standard modifications.* The requirement under 798.4700 of this chapter is modified so that the test substance shall be administered by oral gavage.

(iii) *Reporting requirements.* (A) The reporduction and fertility effects study shall be completed and final results submitted to the Agency within 29 months of the effective date of the final test rule.

(B) Interim progress reports shall be provided quarterly, beginning 90 days after the effective date of the final Phase II test rule.

(Information collection requirements have been approved by the Office of Management and Budget under control number 2070–0033.)

[FR Doc. 86–9410 Filed 4–25–86; 8:45 am]

BILLING CODE 6560–50–M

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Part 431

General Regulations for Power Generation, Operation, Maintenance and Replacement at the Boulder Canyon Project, Arizona/Nevada; Reopening of Comment Period

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of Reopening of Comment Period on Proposed General Regulations.

SUMMARY: The Bureau of Reclamation published proposed "General Regulations for Power Generation, Operation, Maintenance, and Replacement at the Boulder Canyon Project" in the **Federal Register** on March 6, 1986 (51 FR 7833–7835). Interested parties were invited to submit comments concerning the proposed General Regulations to the Regional Director, Bureau of Reclamation, Boulder City, Nevada within 45 days of the date of the notice.

On April 21, 1986, several of the current and proposed Boulder Canyon Project allottees requested an extension of the comment period. As a result of that request, the deadline for written comments concerning the proposed General Regulations has been reopened and extended.

DATES: All comments concerning the proposed General Regulations should be submitted on or before May 5, 1986.

ADDRESS: Written comments concerning the proposed General Regulations should be sent to: Mr. Edward Hallenbeck, Regional Director, Bureau of Reclamation, P.O. Box 427, Boulder City, Nevada 89005.

FOR FURTHER INFORMATION CONTACT: Edward Hallenbeck (702) 293–8411.

Dated: April 24, 1986.

(Sgd.) C. Dale Duvall,

Commissioner.

[FR Doc. 86–9533 Filed 4–25–86; 8:45 am]

BILLING CODE 4310–09–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 86–80; RM–5303]

TV Broadcast Station in Gary, IN

AGENCY: Federal Communications Commission.

ACTION: Extension of comment time.

SUMMARY: This action extends the time for filing comments and reply comments in a proceeding involving a proposal to exchange channels by the permittees of a noncommercial educational UHF station and a commercial UHF station in Gary, Indiana.

DATES: Comments must be filed on or before May 9, 1986, and reply comments on or before May 27, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Robert Hayne, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Television broadcasting.

The authority citation for Part 73 continues to read:

Authority: Secs. 4 and 303, 48 Stat. 1066, as amended, 1082, as amended; 47 U.S.C. 154, 303. Interpret or apply secs. 301, 303, 307, 48

Stat. 1081, 1082, as amended, 1083, as amended, 47 U.S.C. 301, 303, 307. Other statutory and executive order provisions authorizing or interpreted or applied by specific sections are cited to text.

Order Extending Time For Filing Comments and Reply Comments

In the Matter of Amendment of §73.606(b), Table of Assignments, Television Broadcast Stations (Gary, Indiana); MM Docket No. 86–80, RM–5303.

Adopted: April 14, 1986.
Released: April 17, 1986.

By the Chief, Policy and Rules Division.

1. On March 21, 1986, the Commission released a *Notice of Proposed Rule Making* in this proceeding. 51 FR 11063, published April 1, 1986. Inadvertently, the respective dates for filing comments and reply comments were specified as April 14, 1986 and April 29, 1986. In an *Erratum* released March 27, 1986, these dates were attempted to be corrected to read April 28, 1986 and May 13, 1986, respectively.

2. However, as indicated in the preceding paragraph, this *Notice* was not published in the **Federal Register** until April 1, 1986. Consequently, interested parties do not have the requisite 30 days to submit comments. Therefore, on our own motion, we are extending the dates for comments and reply comments.

3. Accordingly, it is ordered, that the time for filing comments and reply comments in the above captioned proceeding is extended to and including May 9, 1986 and May 27, 1986, respectively.

4. This action is taken pursuant to the authority contained in sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and §§ 0.61, 0.204(b) and 0.283 of the Commission's Rules.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

[FR Doc. 86–9451 Filed 4–25–86; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[MM Docket No. 86–145; RM–5121]

FM Broadcast Station in Webster, MA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the allotment of FM Channel 255A to Webster, Massachusetts, in response to a petition filed by Okun Broadcasting, Inc. This allotment could provide for a first FM service to the community.

DATES: Comments must be filed on or before June 13, 1986, and reply comments on or before June 30, 1986.

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

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

List of Subjects in 47 CFR Part 73:

Radio braodcasting.

The authority citation for Part 73 continues to read:

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

Notice of Proposed Rule Making

In the Matter of Amendment of § 73.202(b) Table of Allotments, FM Broadcast Stations (Webster, Massachusetts); MM Docket No. 86–145, RM–5121.

Adopted: April 9, 1986.
Released: April 22, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it a petition for rule making filed by Okun Broadcasting, Inc.[1] ("petitioner"), requesting the allocation of FM Channel 255A to Webster, Massachusetts, as that community's first local FM broadcast service. Petitioner submitted information in support of the proposal and stated its intention to apply for the channel.

2. We believe the petitioner's proposal warrants consideration. The channel can be allocated in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules provided there is a site restriction 7.9 kilometers (4.9 miles) west of the community. The site restriction will prevent a short spacing to Station WPLM–FM, Channel 256, Plymouth, Massachusetts and Station WROR, Channel 253, Boston, Massachusetts.

3. In view of the fact that the proposed allotment could provide a first FM broadcast service to Webster, Massachusetts, the Commission believes it is appropriate to propose amending the FM Table of Allotments, § 73.207(b) of the Commission's Rules, with respect to the following community:

City	Channel No	
	Present	Proposed
Webster, MA	255A	

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before June 13, 1986, and reply comments on or before June 30, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

Mr. Alan Okun, Okun Broadcasting, Inc., Radio Station WGFP, 26 West Main Street, Dudley, Massachusetts 01570

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

[1] Petitioner is the licensee of AM Station WGFP, Webster, Massachusetts.

Federal Communications Commission.

Charles G. Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

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

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

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

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

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

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

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

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

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

[FR Doc. 86-9445 Filed 4-25-86; 8:45 am]
BILLING CODE 6712-01-M

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47 CFR Part 73

[MM Docket No. 86-147; RM-5129]

FM Broadcast Station in Hancock, MI

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the allotment of FM Channel 254C2 to Hancock, Michigan, in response to a petition filed by Thomas M. McNamara. This allotment could provide a second FM broadcast service to the community.

DATES: Comments must be filed on or before June 13, 1986, and reply comments on or before June 30, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634-6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

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

Notice of Proposed Rule Making

In the Matter of Amendment of § 73.202(b) Table of Allotments, FM Broadcast Stations (Hancock, Michigan); MM Docket No. 86-147, RM-5129.

Adopted: April 9, 1986.
Released: April 22, 1986.

By the Chief, Policy and Rules Division.

1. The Commission has before it a petition for rule making filed by Thomas M. McNamara ("petitioner"), requesting the allocation of FM Channel 254C2 to Hancock, Michigan, as that community's second FM broadcast service. Petitioner submitted information in support of the proposal and stated his intention to apply for the channel.

2. We believe the petitioner's proposal warrants consideration. The channel can be allocated in compliance with the minimum distance separation requirements of § 73.207 of the Commission's Rules. Since Hancock is located within 199 miles (320 kilometers) of the common U.S.-Canadian border, Candian concurrence is required.

3. In view of the fact that the proposed allotment could provide a second FM broadcast service to Hancock, Michigan, the Commission believes it is appropriate to propose amending the FM Table of Allotments, § 73.202(b) of the Commission's Rules, with respect to the following community:

City	Channel No.	
	Present	Proposed
Hancock, MI	228A	228A, 254C2

4. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

5. Interested parties may file comments on or before June 13, 1986, and reply comments on or before June 30, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petitioners, or their counsel or consultant, as follows:

Thomas M. McNamara, JLM Enterpries, 4575 Marlborough Road, Okemos, Michigan 48864

6. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to

amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend § 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

7. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles G. Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

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

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

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

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

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

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

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

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

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

[FR Doc. 86–9446 Filed 4–25–86; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[MM Docket No. 86–146; RM–4958]

FM Broadcast Station in Palmyra, MO et al.

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: This action proposes the substitution of Class C2 Channel 248 for Channel 252A and modification of the license for Channel 252A at Palmyra, Missouri, in response to a petition filed by Palmyra Broadcasting Company. The allocation also requires the substitution of 237A for 249A at Pittsfield, Illinois and modification of the license for Station WBBA(FM) accordingly.

DATES: Comments must be filed on or before June 13, 1986, and reply comments on or before June 30, 1986.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Kathleen Scheuerle, Mass Media Bureau, (202) 634–6530.

SUPPLEMENTARY INFORMATION:

List of Subjects in 47 CFR Part 73

Radio broadcasting.

The authority citation for Part 73 continues to read:

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

Notice of Proposed Rule Making and Order to Show Cause

In the matter of Amendment of § 73.202(b), Table of Allotments, FM Broadcast Stations (Palmyra, Missouri and Pittsfield, Illinois); MM Docket No. 86–146, RM–4958.

Adopted: April 9, 1986.
Released: April 22, 1986.

By the Chief, Policy and Rules Division.

1. Before the Commission is a petition for rule making filed by Palmyra Broadcasting Company [1] ("petitioner"), requesting the substitution of FM Channel 248C2 for Channel 252A at Palmyra, Missouri. Petitioner also requests modification of its license for Station KIDS, to specify operation on the higher class channel.

2. Channel 248C2 can be assigned to Palmyra, Missouri, in compliance with the minimum distance separation

[1] Petitioner is the license of FM Station KIDS, Channel 252A, Palmyra, Missouri.

requirements of the Commission's Rules, provided Channel 249A is deleted from Pittsfield, Illinois. Channel 249A is presently licensed to Station WBBA(FM). Petitioner has proposed the substitution of Channel 237A for Channel 249A at Pittsfield. The proposed substitution at Pittsfield can be accomplished in compliance with the minimum distance separation requirements. As for the Palmyra proposal, should another party indicate an interest in the Class C2 allotment, the substitution at Palmyra could not be implemented unless an additional equivalent channel is also allotted. See, *Modification of FM and TV Station Licenses*, Docket 83–1148, 98 F.C.C. 2d 916 (1984).

3. Whenever an existing licensee is ordered to switch frequencies in order to accommodate a new channel allotment, we require that the proponent of the new allotment make a commitment that it will reimburse the affected station for the costs incurred in changing frequencies. Petitioner has stated that it understands that it would be its responsibility to reimburse Station WBBA for the reasonable costs in changing frequency.

4. In view of the fact that the proposed allotment could provide a wide area coverage station at Palmyra, Missouri, the Commission proposes to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules, as follows:

City	Channel No.	
	Present	Proposed
Palmyra, MO	252A	248C2
Pittsfield,IL	249A	237A

5. It is ordered, that pursuant to section 316 of the Communications Act of 1934, as amended, Pike Broadcasting Company, the licensee of Station WBBA(FM), Pittsfield, Illinois, shall show cause why its license should not be modified to specify operation on Channel 237A in lieu of Channel 249A.

6. Pursuant to section 1.87 of the Commission's Rules, Pike Broadcasting Company, not later than June 13, 1986, may request that a hearing be held on the proposed modification. If the right to request a hearing is waived, Pike Broadcasting Company may, not later than June 13, 1986, file a written statement showing with particularity why its license should not be modified as proposed in the *Order to Show Cause*. In this case, the Commission may call on Pike Broadcasting Company to furnish additional information, designate the matter for hearing, or issue, without further proceedings, an *Order* modifying the license as provided in the *Order to Show Cause*. If the right to request a hearing is waived and no written statement is filed by the date referred to above, Pike Broadcasting Company will be deemed to have consented to the modification as proposed in the *Order to Show Cause* and a final *Order* will be issued by the Commission, if the above-mentioned channel modifications are ultimately found to be in the public interest.

7. It is further ordered, That the Secretary of the Commission shall send by Certified Mail, Return Receipt Requested, a copy of this *Order* to the following:

Pike Broadcasting Company,
Station WBBA(FM),
P.O. Box 537,
Pittsfield, Illinois 62363

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be allotted.

9. Interested parties may file comments on or before June 13, 1986, and reply comments on or before June 30, 1986, and are advised to read the Appendix for the proper procedures. Additionally, a copy of such comments should be served on the petition(s), or their counsel or consultant, as follows:

Eugene T. Smith,
715 "G" Street, SE.,
Washington, D.C. 20003
(Counsel for the petitioner)

10. The Commission has determined that the relevant provisions of the Regulatory Flexibility Act of 1980 do not apply to rule making proceedings to amend the FM Table of Allotments, § 73.202(b) of the Commission's Rules. See, *Certification that sections 603 and 604 of the Regulatory Flexibility Act Do Not Apply to Rule Making to Amend §§ 73.202(b), 73.504 and 73.606(b) of the Commission's Rules*, 46 FR 11549, published February 9, 1981.

11. For further information concerning this proceeding, contact Kathleen Scheuerle, Mass Media Bureau (202) 634–6530. However, members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such at this one, which involve channel allotments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making, other than comments officially filed at the Commission, or oral presentation required by the Commission. Any comment which has not been served on the petitioner constitutes an *ex parte* presentation and shall not be considered in the proceeding. Any reply comment which has not been served on the person(s) who filed the comment, to which the reply is directed, constitutes an *ex parte* presentation and shall not be considered in the proceeding.

Federal Communications Commission.

Charles Schott,

Chief, Policy and Rules Division, Mass Media Bureau.

Appendix

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

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

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

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

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

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

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

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

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

[FR Doc. 86-9447 Filed 4-25-86, 8:45 am]
BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 51, No. 81
Monday, April 28, 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.

DEPARTMENT OF AGRICULTURE

Packers and Stockyards Administration

Proposed Posting of Stockyards; River Valley Livestock Market, Arkansas, et al.; Correction

On April 18, 1986, a notice was published in the **Federal Register** giving notice of the proposed posting for certain stockyards listing their facility number, name, and location of stockyards.

This notice is to correct the facility number assigned to the following market in the publication.

The notice should have read: TN–183, Lawrence County Feeder Pig Sale, Inc., Ethridge, Tennessee.

Done at Washington, DC, this 22nd day of April 1986.

Harold W. Davis,

Director, Livestock Marketing Division.

[FR Doc. 86–9472 Filed 4–25–86; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–588–502]

Antidumping; Nylon Impression Fabric From Japan; Final Determination of Sales at Not Less Than Fair Value

AGENCY: International Trade Administration/Import Administration/Commerce.

ACTION: Notice.

SUMMARY: We have determined that nylon impression fabric from Japan is not being, nor is likely to be, sold in the United States at less than fair value, and have notified the U.S. International Trade Commission (ITC) of our determination. This investigation covers only imports by or for the account of Shirasaki Tape Co., Ltd. (Shirasaki) and Asahi Chemical Industry Company, Ltd. (Asahi). There is an outstanding antidumping duty finding on this merchandise (43 FR 22481, May 25, 1978). However, Asahi and Shirasaki were specifically excluded from that finding.

EFFECTIVE DATE: April 28, 1986.

FOR FURTHER INFORMATION CONTACT: John J. Kenkel or Charles Wilson, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–5404 or 377–5288.

Final Determination

We have determined that nylon impression fabric from Japan is not being, nor is likely to be, sold in the United States at less than fair value, as provided in section 731 of the Tariff Act of 1930, as amended (19 U.S.C. 1673) (the Act). We made fair value comparisons on approximately 90 percent of respondents' sales of the class or kind of merchandise to the United States during the period of investigation. Comparisons were based on the United States purchase price and the home market price. The weighted-average margin for Asahi is 0.06 percent. This is *de minimis*. Shirasaki had no sales at less than fair value.

Case History

On June 10, 1985, we received a petition from Bomont Industries and Burlington Industries, Inc., on behalf of the domestic nylon impression fabric industry. In compliance with the filing requirements of § 353.36 of the Commerce regulations (19 CFR 353.36), the petition alleged that imports of nylon impression fabric from Japan are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are materially injuring, or are threatening material injury to, a U.S. industry. There is an outstanding antidumping duty finding on this merchandise (43 FR 22481, May 25, 1978). However, Asahi and Shirasaki were specifically excluded from this finding. After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation on merchandise produced by or for the account of Asahi and Shirasaki. We notified the ITC of our action and initiated such an investigation on July 1985 (50 FR 28111). On July 25, 1985, th ITC determined that there is reasonab indication that imports of nylon impression fabric from Japan are materially injuring a U.S. industry (50 31053).

On August 6, 1985, we presented antidumping duty questionnaires to Asahi and Shirasaki. We received the responses on September 20, 1985.

On November 8, 1985, petitioners alleged that Asahi was selling nylon impression fabric in Japan during the period of investigation below its cost o production.

On November 15, 1985, we initiated cost of production investigation of Asahi. We received Asahi's cost response on December 9, 1985.

On November 27, 1985, we issued a preliminary determination of sales at not less than fair value (50 FR 49976). December 19–23, 1985, we verified the responses of Asahi and Shirasaki.

We initiated an investigation of middlemen on December 27, 1985, but subsequently terminated it when we learned that petitioners' request was predicated on erroneous information.

We held a public hearing on March 1986.

Products Under Investigation

The merchandise covered by this investigation consists of nylon impression fabric from Japan woven from continuous filament yarns of nyl whether texturized or non-texturized; finished; whether slit or uncut; and no inked for use in typewriters and printers; and currently classifiable un item numbers 347.6020, 338.5001, and 338.5002 of the *Tariff Schedules of the United States, Annotated*, produced b or for the account of Asahi and Shirasaki.

We have determined that inked ribbon is not the same class or kind o merchandise as uninked nylon impression fabric and, therefore, it is within the scope of this investigation.

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair va we compared the United States price with the foreign market value.

United States Price

As Asahi sold the merchandise to unrelated Japanese trading companies knowing that it was destined for the United States, we used the packed price to the Japanese trading companies to represent the United States price. We deducted foreign inland freight.

As Shirasaki sold the merchandise to unrelated U.S. purchasers prior to importation into the United States, we used the purchase price of the subject merchanise, as provided in section 772(b) of the Act, to present the U.S. price. We calculated the purchase price based on the F.O.B. or C.I.F. packed price to U.S. purchasers. We deducted brokerage, foreign inland freight, ocean freight, inspection fees and marine insurance, where appropriate.

Foreign Market Value

The petitioners alleged that sales in the home market were at prices below the cost of producing the merchandise. We examined production costs for both respondents, which included all appropriate costs for materials, fabrication and general expenses.

As there were sufficient home market sales at or above the cost of production to constitute a basis for comparison, we calculated foreign market value based on home market price, in accordance with section 773(a) of the Act. We made adjustments, where appropriate, for differences in the physical characteristics of the merchandise, pursuant to § 353.16 of our regulations.

For Asahi, we deducted rebate costs from home market price. For Shirasaki, we deducted inland freight. For both companies, we made adjustments for differences in circumstances of sale related to credit expense pursuant to § 353.15 of our regulations. We also made adjustments for differences in Shirasaki's packing costs. We added U.S. packing costs to Asahi's unpacked home market price. In calculating foreign market value, we made currency conversions from Japanese yen to U.S. dollars in accordance with § 353.56(a) of our regulations, using certified daily exchange rates.

Verification

In accordance with section 776(a) of the Act, we verified all the information used in making this determination. We were granted access to the books and records of companies involved. We used standard verification procedures, including examination of relevant sales and financial records of the companies.

Petitioners' Comments

Comment 1: Petitioners argue that Shirasaki sells second quality nylon impression fabric in the "other" category in the home market for a higher price than first quality, resulting in fictitious prices in its home market. In lieu of Shirasaki's home market data, petitioners suggest using their revised data or Shirasaki's third country data.

DOC Position: We disagree. No second quality fabric was sold in the home market to unrelated parties. In fact, the "other" category contains more expensive specialty fabric sold at higher prices.

Comment 2: Shirasaki's actual sales prices are higher than those listed in its price list, leading petitioner to believe that Shirasaki's reported prices are unreliable.

DOC Position: We disagree. The reason for the higher prices was that the price list did not include credit expenses.

Comment 3: There are inaccuracies in Shirasaki's credit costs in both markets. Also payment may have been made by promissory note; if so, the Department should use the discount rate applied to those notes instead of Shirasaki's average short-term debt rate. Alternatively, the Department should use the country-wide interest rate for home market sales.

DOC Position: We disagree. While Shirasaki received payment on home market sales by promissory notes, they were not discounted. Therefore, we have used its average short-term interest rate. In addition, we have accounted for partial payments on home market sales. U.S. credit costs have been calculated from date of shipment and include all fees and commissions.

Comment 4: Asahi's contention that it sells unslit fabric to trading companies after finishing by Seiren makes no commercial sense, since Seiren has the capability to slit material yet does not perform this service for Asahi. The Department did not verify the distribution system of Asahi; therefore, it should use petitioner's market study as best information available. Petitioners also are concerned over Asahi's transfer prices—they make no commercial sense as well. Finally, Asahi must be receiving some kind of repayment from either the trading company or Seiren, especially since Seiren is losing money.

DOC Position: We disagree. The Department conducted an extensive verification of Asahi and its sales practices. We verified from Asahi's books and records that Asahi sells only unslit material and only to the trading companies. We found that Seiren was recovering its costs in its finishing operations for Asahi. Furthermore, since Asahi accounts for only a very small fraction of Seiren's business, we found no relationship between Seiren's losses and prices charged to Asahi for finishing the fabric.

Comment 5: The Department failed to verify whether slit fabric is sold by Asahi. Thus, the best information available should be used.

DOC Position: See our response to *comment 4, supra.*

Comment 6: Credit costs calculated by Asahi are wrong. The Department should use the discount rate for Asahi's promissory notes. Also, compensating balances should not be included in the computation of the interest rate. Alternatively, the Department should use the prime rate in Japan. Credit costs should be calculated from the date of shipment.

DOC Position: We partially agree. Since so few home market sales were discounted, we used the average short-term interest rate. We did not include compensatory balances in the calculation of the interest rate. We did calculate credit costs from the date of shipment.

Comment 7: "Product development" expenses in Asahi's home market should not be accounted for since they are directly related and were not verified.

DOC Position: We agree.

Comment 8: The interest rate to be used for Asahi's U.S. sales should include bank commissions, as does the rate for Shirasaki. The time for credit cost should be calculated from date of shipment.

DOC Position: We partially agree. For U.S. sales we have used the same interest rate that Asahi charge its customers. Asahi pays no bank fees or commissions, so none have been included. We did calculate credit costs from date of shipment.

Comment 9: Packing and inland freight costs of Asahi cannot be used. While the total amount was verified, individual amounts were not.

DOC Position: We disagree. In the absense of any alternative data offered the petitioners, we have used the data supplied by the respondent for the individual amounts, since they appear reasonable and, in any event, no matter how the total is bifurcated, the differental between home market and U.S. price is identical.

Comment 10: The cost information provided by Shirasaki shows that there are significant swings in unit costs from period to period and thus the—

Department should use monthly cost of production figures rather than aggregate.

DOC Position: We disgree. The Department used its usual methodology of calculating a weighted-average cost for the period of investigation. The cost data did not reflect significant swings in unit costs from period to period.

Comment 11: The Department should not rely on the general, selling and administrative (GS&A) expenses alleged by Shirasaki but should use the company-wide GS&A as the basis for determining the cost of production.

DOC Position: We do not believe the company-wide GS&A percentage is appropriate for NIF sold to unrelated home market customers. However, certain home marketing selling expense were allocated to export sales in the submission. These have been reallocated only to home market sales.

Comment 12: Shirasaki should have used the by-product method of allocating costs to second quality material.

DOC Position: Shirasaki did not produce by-products. Additionally, its method of accounting for second quality product was used for the final determination because it adequately accounts for the cost of such products.

Comment 13: The allocation method for labor costs in Shirasaki's slitting department are skewed products not sold in great quantity resulting in artifically lower production costs for the large-scale items.

DOC Position: We disagree. Although the time study used to allocate costs was prepared for the submission, it was based on production records maintained in the normal course of business. We believe that this allocation basis reflects the actual costs which may be attributable to each product.

Comment 14: Shirasaki's raw material and weaving should be increased by a reasonable amount for additional charges associated with weaving.

DOC Position: We disagree. We verified that all costs incurred in the weaving process. Including transportation and handling, were included in the cost of production data submitted by Shirasaki.

Comment 15: Shiraski may be deemed to be related to one of its weavers because it may have undue influence over it because of certain financial transactions with that weaver. Morever, this item was not verified by the Department.

DOC Position: We disagree. Shiraski is not considered to be "related" to its weaver, as defined by the Act.

Comment 16: Research and development costs do not appear to have been included by Shiraski in its production nor verified by the Department.

DOC Position: We disagree. During the verification, we determined that research and development expenses were correctly included in cost of production.

Comment 17: Asahi owns more than 5 percent of two raw material suppliers and because the price of the materials it receives from the companies are below the market price, the Department should use the market price rather than the transfer price to determine raw material cost.

DOC Position: We agree. The price of raw material purchases from unrelated supplies has been used to determined cost of raw material purchased from related supplier during the period of investigation.

Comment 18: Indirect costs associated with contract labor costs do not appear to have been reported by Asahi.

DOC Position: We disagree. These costs were included in weaving costs in the cost of production.

Comment 19: Asahi's weaver is financially and commercially related to Asahi. Thus. cost of weaving may not be a true arm's length price.

DOC Position: We disagree. We found no relationship between Asahi and its weaver on which to consider them related parties in accordance with the Act. Thus, they are deemed to have transacted their business at arm's length.

Comment 20: The Department should disregard Asahi's costs for finishing performing by Seiran, a related company, and use the best information available to it.

DOC Position: We examined during verification the costs of finishing performed by Seiren. We believe these costs have been correctly and fully reflected in the cost of production.

Comment 21: The Department should use Asahi's divisional financial statement GS&A percentage for the first half of the 1984 fiscal year rather than the percentage reported in the submission.

DOC Position: Although the GS&A percentage for the division pertinent to nylon impression fabric production is in fact lower than that cited in the verification report for the period indicated, and the corporate-wide percentage is approximately twice that figure, we believe these ratios do not reasonably illustrate the relationship of GS&A expense to the product's manufacturing cost. We believe the methodology used by the respondent in allocating GS&A expense in total to home market sales is correct. Also see our response to Asahi's *comment 1.*

Comment 22: For the following reasons, DOC should expand the period of investigation in order to determine whether there is a likelihood of dumping. First, the price list of one respondent for August 1985 showed lower U.S. dollar prices for some products. Second, affidavits from petitioners indicated lower prices in late 1985. Third, DOC import statistics showed lower average prices in January 1986 than in December 1985. Fourth, since the fluctuation in the yen/dollar exchange rate is permanent instead of a dramatic temporary change, the Department should not apply the 90-day lag rule. Fifth, even assuming that the 90-day lag rule should be used, then the Department should investigate prices since December 1985. Finally, given the new exchange rates, both companies are now selling below cost of production.

DOC Position: We disagree. The Department has found no evidence that Asahi and Shirasaki have sold the merchandise at less than fair value during the present six-month investigative period. During the past investigation on nylon impression fabric from Japan, the respondents Asahi and Shirasaki were specifically excluded because their margins were *de minimis* or minimal. Thus, the evidence is contrary to petitioners' allegation of a likelihood of sales at less than fair value.

Petitioners' evidence of lower U.S. dollar prices was obtained by comparing actual sales when credit was extended to a price list which did not include the cost of extending credit. When prices with like terms are compared, there is no evidence of lower U.S. dollar prices.

Because of lags in data collection, petitioner's citation of December 1985 and January 1986 import statistics really points to imports arriving up to three months before those dates and, coupled with no information on the product mix arriving during that period, leads us to the conclusion that petitioners' argument is without merit.

Petitioners' allegation of lower yen prices also is rejected. Petitioners compare an August price list with October exchange rates. the dramatic fall in the yen began in October. Petitioners provide no evidence of actual prices or price lists for the last three months of 1985.

Furthermore, 353.56 of the Department regulations, 19 CFR 353.56, also provides that "for purposes of fair value investigations, manufacturers . . . concerned will be expected to act within a reasonable period of time to take into account price differences resulting from

sustained changes in prevailing exchange rates." The dramatic decline in the yen since October is such a sustained change.

The Commerce Department has determined that 90 days is a reasonable period of time for foreign companies to change their prices. *See Melamine Chemicals Inc. v. United States*, 732 F.2d 924 (Fed. Cir. 1984). Petitioners argue that Asahi's and Shirasaki's failure to raise their prices in the face of declining exchange rates indicates a likelihood of sales at less than fair value. However, Asahi and Shirasaki had 90 days before they were required to lower their prices, i.e., the period mid-October 1985 to mid-January 1986. The price list for this period could not be compared with the falling exchange rate to determine sales at less than fair value because the dramatic fall in the yen began in October 1985. Therefore, if the Department accepted the petitioners' request we would have at most only four weeks of data, i.e., mid-January to mid-February, 1986, as our period of investigation to make a finding of sales at less than fair value. In light of the six months of data in our original period of investigation, four weeks is an insufficient period to find that there are sales at less than fair value.

Comment 23: Public data have been withheld from petitioner and nonconfidential summaries have not been in sufficient detail. Therefore, responses should be rejected by the Department and best information available used.

DOC Position: We disagree. Respondents filed adequately detailed summaries of their confidential submissions. Counsel for petitioners also received all confidential versions of submissions under administrative protective order (APO).

Comment 24: Verification exhibits should be released to counsel for petitioners under administrative protective order (APO), particularly those that contain information which was requested in the questionnaire and those that contain publicly available information.

DOC Position: We partially agree. We gave counsel to petitioners copies of all of the verification exhibits containing public information and information requested in the questionnaire. In accordance with our long-held policy, we did not release verification exhibits containing confidential information because they contain no new data and their submission in this and future investigations is vital to our ability to conduct timely investigations. They merely contain supporting documents for data contained in the responses which were released to counsel for the petitioners under APO. We do not accept as verification exhibits data which should have been included in the responses.

Comment 25: Petitioners argue that inked nylon impression fabric from West Germany is transshipped from Japan via West Germany. These transshipments should be inspected to see if third country sales are being made below fair value.

DOC Position: We disagree. Counsel for petitioners did not provide substantiation of any kind that imports of linked nylon impression fabric from West Germany originated in Japan. To the contrary, we verified that Shirasaki did not export any of this product to West Germany. Asahi, in its response, provided affidavits from the West German importer and its purchasers, two companies which ink and distribute the Asahi merchandise, that the Japanese fabric is inked and resold to the ultimate user in Europe. Further, this investigation, as requested in the petition, covers only uninked nylon impression fabric. There were no imports of this product from West Germany during the period of investigation.

Comment 26: Asahi apparently sells short rolls in the U.S. at the same price as full rolls, giving evidence to the possibility of a fictitious market.

DOC Position: We disagree. Asahi only sold one short roll in one U.S. shipment and it was short by less than one percent. Therefore, Asahi was justified in not giving a discount.

Respondents' Comments

Asahi Comment 1: GS&A costs should be less than 10 percent instead of more. The percent mentioned by the Department in its verification report must be based on a miscalculation. Also Asahi's methodology to calculate GS&A costs on a unit basis is correct.

DOC Position: We partially agree. See our response to petitioners' *Comment 21, supra.* GS&A costs should be allocated to products on the basis of cost of sales.

Asahi Comment 2: Costs for certain materials paid to related suppliers reflect an arm's length transaction.

DOC Position: We disagree. See our response to petitioners' *Comment 17, supra.*

Asahi Comment 3: Compensating balances should be included in cost of credit in the home market. Also, the actual rate charged to U.S. customers should be used.

DOC Position: We disagree. See our response to petitoners' *Comment 6, supra.*

Shirasaki Comment 1: The verified average short-term interest rate should be used for both home and U.S. sales. The Department should not include the cost of bank fees and commissions in the cost of U.S. credit.

DOC Position: We disagree. We used average short-term interest rate for home market sales only. For U.S. sales, we used the discount rate actually used, including fees and commissions. We do agree that the period to be used should be from date of shipment to date of payment.

Shirasaki Comment 2: While depreciation was initially underreported, the amount accounted for a smaller percent change from cost of production than that stated by the Department in its verification report.

DOC Position: We agree. The recalculation of depreciation expense would increase GS&A expense for each product insignificantly and total cost of production by even less.

Shirasaki Comment 3: The Department should use 15 percent and not the 25 percent company-wide rate for selling, general and administrative expenses.

DOC Position: See our response to petitioners' *Comment 11, supra.*

Shirasaki Comment 4: The time study done for slitting should be used since it is part of the normal recordkeeping of the company and was not done specifically for this investigation.

DOC Position: We agree. See our response to petitioners' *Comment 13, supra.*

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination.

This determination is published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

Paul Freedenberg,

Assistant Secretary for Trade Administration.

April 21, 1986.

[FR Doc. 86-9389 Filed 4-25-86; 8:45 am]

BILLING CODE 3510-DS-M

Application for Duty-Free Entry of Scientific Instrument; Correction

Publication of a notice of receipt of application for the resubmission of Docket Number 86-001 was inadvertently omitted. Notice of decision for this application was published in the **Federal Register** of April 11, 1986. In that notice, FR Doc. 86-8167 appearing at page 12534, Docket Number 86-001 is corrected to read Docket Number 86-001R.

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

Frank W. Creel,

Director, Statutory Import Program Staff.

[FR Doc. 86-9383 Filed 4-25-86; 8:45 am]

BILLING CODE 3510-DS-M

University of California et al.; Applications for Duty-Free Entry of Scientific Instruments

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 301), we invite comments on the question of whether instruments of equivalent scientific value, for the purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with § 301.5(a)(3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, DC 20230. Applications may be examined 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. 86-163. Applicant: University of California, Los Alamos National Laboratory, SM-30, Bikini Road, P.O. Box 990, Los Alamos, NM 87545. Instrument: ICP Mass Spectrometer, Model VG PlasmaQuad. Manufacturer: VG Instruments Inc., United Kingdom. Intended Use: The instrument is intended to be used to perform trace element analysis on a large variety of materials that are utilized in the nuclear weapons research program at the Los Alamos National Laboratory. Application received by Commissioner of Customs: March 24, 1986.

Docket No. 86-164. Applicant: State University of New York at Stony Brook, Stony Brook, NY 11794-3400. Instrument: Linear Position Sensitive Detector with 2 Preamplifiers, Model 112-5A/10. Manufacturer: Murtechnik, Austria. Intended Use: The instrument is intended to be used for detecting the x-ray diffraction from biological macromolecules such as that of muscle contractile systems with high time-resolving power. Particular interest will be on the study of filament dynamics related to cross-bridge motions, epoxy resin formation in materials research and sol-gel transitions. Application received by Commissioner of Customs: March 24, 1986.

Docket No. 86-165. Applicant: Princeton University, Director of Purchases, P.O. Box 33, Princeton, NJ 08544. Instrument: Mass Spectrometer, Model MS 50. Manufacturer: Kratos Analytical, United Kingdom. Intended Use: The instrument is intended to be used in the following chemistry research projects:

1. Biomimetic Control of Reactivity—The aim is to understand the mechanism by which nature controls chemical reactivity.

2. Synthetic and Mechanistic Organometallic Chemistry of Unsaturated Metal-Carbon Bonds—which includes the chemistry of carbene, carbyne and carbido metal complexes.

3. Static and Dynamic Stereochemistry of Organic and Organometallic Molecules—directed toward the exploration of the stereochemistry of organic and organometallic compounds through a detailed analysis of structures and reaction mechanisms.

4. Organic Synthesis—research directed toward the development of new synthesis methodology, and the synthesis of natural products and unusual structures.

5. Heterocyclic Chemistry—research concerned primarily with the development of new synthetic methods, particularly in the field of heterocyclic and aromatic chemistry and their exploitation for the synthesis of target molecules of exceptional biological interest.

6. Synthesis and Characterization of Molecular Models of the Active Site of the Photosynthetic Oxygen Evolving Enzyme.

7. Carbene and Carborane Chemistry.

8. Mechanistic Studies of Dioxygenases.

9. Organometallic Reagents for Organic Synthesis.

Application received by Commissioner of Customs: March 24, 1986.

Docket No. 86-166. Applicant: Columbia University, College of Physicians and Surgeons, 630 West 168th Street, New York, NY 10032. Instrument: Heterodyne Interferometer. Manufacturer: University of Neuchatel, Switzerland. Intended Use: The instrument will be used for vibration measurement of single cellular elements in the inner ears of living animals in the basal turn of the cochlea through the intact round window membrane. Application received by Commissioner of Customs: March 24, 1986.

Docket No. 86-169. Applicant: Texas A&M Research Foundation, University Drive and Wellborn Road, USDA Building, Room 219, College Station, TX 77843-3578. Instrument: UV/Visible Spectrophotometer Unit, Model SU-40A. Manufacturer: Hi-Tech Scientific Ltd., United Kingdon. Intended use: The instrument is intended to be used for studies of proteins and DNA from the bacterium E.coli which are involved in the replication of its DNA. The rates of binding will be examined and detected by changes in the Fluorescence properties of the protein upon binding or changes in the absorption of light. Rapid mixing of the protein and DNA will be performed in the stopped-flow instrument and the kinetics of the interaction will be monitored. The instrument will also be used for research training of graduate students in the course Biochemistry 685. Application received by Commission of Customs: March 24, 1986.

Docket No. 86-175. Applicant: University of Washington, Seattle, WA 98195. Instrument: Gas Isotope Ratio Mass Spectrometer, Model MAT-251. Manufacturer: Finnigan MAT Corp., West Germany. Intended use: The instrument is intended ot be used for combined oceanographic and isotopic measurements for innovative marine science research. The current fields of research include:

Pore Water Studies
Nutrient Cycles in Natural Waters
Anoxic Basins
Hydrothermal Vent Systems
Organic Geochemistry
Food Webs

In addition, the instrument will be used for educational purposes in various oceanography courses in which students are instructed in the basic processes which affect the chemistry of sea water and marine sediments. Application recevied by Commission of Customs: March 24, 1986.

Docket No. 86-176. Applicant: University of Pennsylvania, Pennsylvania Muscle Institute, School of Medicine, B42 Anatomy-Chemistry Building, 37th and Hamilton Walk, Philadelphia, PA 19104-6083.

Instrument: Light Microscope with Accessories. Manufacturer: Sluzba Vyzkumu. Intended use: The instrument is intended to be used for research on blood vessels, heart and skeletal muscle to understand the mechanisms of normal muscle contraction and disease such as high blood pressure, heart failure and miscular dystrophy. Application received by Commissioner of Customs: March 24, 1986.

Docket No.: 86-177. Applicant: University of Pennsylvania, 415 S. University Avenue, Philadelphia, PA

19104. Instrument: Electron Microscope, Model JEM-4000EX. Manufacturer: JEOL, Japan. Intended use: The instrument is intended to be used to examine the following projects or materials:

1. Selectivity stained muscle cells.
2. Mitochondria in several kinds of organs.
3. Smooth muscle cells.
4. Heart muscle cells.
5. Cross-bridges in sleletal muscle.
6. Dense granules in toad bladders in relation to hormone action.
7. Bacterial cell wall and chromosome structure.
8. Structure of centrioles in animal cells.
9. Structure of dense bodies in animal cells.
10. Structure of the cytoplasmic matrix.
11. Orientation of actin filaments in cells.

Application received by Commissioner of Customs: March 25, 1986.

Docket No. 86–178. Applicant: Purdue University, 401 South Grant Street, Freehafer Hall, West Lafayette, IN 47907. Instrument: Flash Analog to Digital Converter and Computer Interface, Model DL 300. Manufacturer: Dr. B. Struck, West Germany. Intended Use: The instrument is intended to be used for studies of hadronic matter at the highest temperature. Proton-antiproton collider experiments will be conducted to obtain measurement of particle types emitted in the collision and their momentum distribution. In addition, graduate students will use the instrument for Ph.D. thesis work. Application received by Commissioner of Customs: March 25, 1986.

Docket No. 86–180. Applicant: National Aeronautics and Space Administration, Goddard Space Flight Center, Greenbelt Road, Greenbelt, MD 20771. Instrument: Magnetic Tape Abrasivity Test Monitor. Manufacturer: Fulmer Research Laboratory Ltd., United Kingdom. Intended ue: The instrument will be evaluated for feasibility of its use on the NSAS Space Tracking Data Network. Application received by Commissioner of Customs: April 1, 1986.

(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. 86–9384 Filed 4–25–86; 8:45 am]

BILLING CODE 3510–DS–M

University of Michigan et al.; Consolidated Decision on Applications for Duty-Free Entry of Electron Microscopes

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 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. 86–075. Applicant: University of Michigan, Ann Arbor, MI 48109. Instrument: Electron Microscope, Model JEM–1200EX with Accessories. Manufacturer: JEOL, Japan. Intended Use: See notice at 51 FR 5751. Instrument ordered July 2, 1985.

Docket No. 86–076. Applicant: Maimonides Medical Center, Brooklyn, MY 11219. Instrument: Electron Microscope, Model EM 109 Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 51 FR 3488. Instrument ordered: October 22, 1985.

Docket No. 86–077. Applicant: The Hospital of the University of Pennsylvania, Philadelphia, PA 19104. Instrument: Electron Microscope, Model H–600–2 with Accessories. Manufacturer: Hitachi Scientific Instruments, Japan. Intended Use: See notice at 51 FR 4647. Instrument ordered: September 4, 1985.

Docket No. 86–087. Applicant: Stanford University, Stanford, CA 94305. Instrument: Electron Microscope, Model EM 430 with Accessories. Manufacturer: N.V. Philips, The Netherlands. Intended use: See notice at 51 FR 3489. Instrument ordered: October 2, 1985.

Docket No. 86–088. Applicant: California Institute of Technology, Pasadena, CA 91125. Instrument: Electron Microscope, Model EM 430. Manufacturer: N.V. Philips, The Netherlands. Intended use: See notice at 51 FR 3486. Instrument Ordered: October 25, 1985.

Docket No. 86–091. Applicant: University of California, San Francisco, San Francisco, CA 94143. Instrument: Electron Microscope, Model JEM–100 CXII. Manufacturer: JEOL, Japan. Intended use: See notice at 51 FR 6155. Application received by Commissioner of Customs: January 17, 1986.

Docket No. 86–093. Applicant: Macalester College, St. Paul, MN 55105. Instrument: Electron Microscope, Model EM 109 with attachments. Manufacturer: Carl Zeiss, West Germany. Intended use: See notice at 51 FR 5752. Application received by Commissioner of Customs: November 26, 1985.

Docket No. 86–094. Applicant: Vanderbilt University School of Medicine, Nashville, TN 37232. Instrument: Electron Microscope, Model H–800–3. Manufacturer: Hitachi Scientific Instruments, Japan. Intended use: See Notice at 51 FR 6157. Application received by Commissioner of Customs: August 9, 1985.

Docket No. 86–098. Applicant: Tulane University School of Medicine, New Orleans, LA 70112. Instrument: Electron Microscope, Model EM 109 with Accessories. Manufacturer: Carl Zeiss Inc., West Germany. Intended use: See notice at 51 FR 6157. Application received by Commissioner of Customs: October 14, 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. 86–9385 Filed 4–25–86; 8:45 am]

BILLING CODE 3510–DS–M

North Carolina State University; 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 Material Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 86–109. Applicant: North Carolina State University, Raleigh, NC 27695–8301. Instrument: Sized Yarn Testing Instrument. Manufacturer: Sulzer-Ruti, Switzerland. Intended use: See notice at 51 FR 6155.

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 a method of subjecting sized yarns to cyclical elongation, abrasion and buckling. 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. 86-9386 Filed 4-25-86; 8:45 am]

BILLING CODE 3510-DS-M

Princeton University; 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 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No.: 86-032. Applicant: Princeton University, Princeton, NJ 08544. Instrument: Simultaneous Analyzer System, Model TG-DSC-111. Manufacturer: Setaram, France. Intended Use: See notice at 50 FR 51445.

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 for the simultaneous differential thermogravimetric and differential calorimetric measurements to temperatures of 827 °C. 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. 86-9387 Filed 4-25-86; 8:45 am]

BILLING CODE 3510-DS-M

Rutgers—The State University; 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 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket No. 86-039. Applicant: Rutgers—The State University, Piscataway, NJ 08854. Instrument: Dilution Refrigerator System, Model 200TLE with Accessories. Manufacturer: Oxford Instruments, United Kingdom. Intended use: See notice at 50 FR 48451.

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 a top loading specimen chamber and capability of cooling to 10.0 millikelvin. The National Bureau of Standards advises in its memorandum dated March 6, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

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

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-9388 Filed 4-25-86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

[Docket No. 60470-6070]

Information Relating to Bowhead Whales; U.S. Implementation of Bowhead Whale Strike Quota for 1986

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

ACTION: Notice of information.

SUMMARY: NOAA publishes information for use in the development of the U.S. position before the International Whaling Commission (IWC) on the aboriginal/subsistence take of bowhead whales and in the domestic allocation of the existing IWC quota for bowhead whales to U.S. nationals. The allocation of the IWC quota for bowhead whales for the aboriginal/subsistence by U.S. natives is 32 strikes for 1986.

EFFECTIVE DATE: April 25, 1986.

FOR FURTHER INFORMATION CONTACT: Becky Rootes, 202-634-7303.

SUPPLEMENTARY INFORMATION: NOAA is responsible for implementation and enforcement of the Marine Mammal Protection Act, the Endangered Species Act, and the Whaling Convention Act. In addition, it provides staff support to the U.S. Commissioner to the IWC and to the IWC Interagency Committee. Consistent with these responsibilities, NOAA develops positions relating to the aboriginal/subsistence harvest of bowhead whales pursuant to paragraph 13 of the Schedule to the International Convention on the Regulation of Whaling, 1946, and allocates the IWC quota for bowhead whales to U.S. natives under a cooperative agreement between NOAA and the Alaska Eskimo Whaling Commission (AEWC)..

On January 14, 1986, NOAA published in the **Federal Register** (51 FR 1550), a request for public comments regarding the data upon which the U.S. positions on the bowhead whale are based and the proposed allocation of strikes for the aboriginal/subsistence bowhead whale catch limit for 1986. NOAA received public comments on the proposed allocations that are summarized as follows: the first comment stated that additional information on the range of harvest limits and the mortality rate of struck and lost animals should be discussed, the second comment stated that the efficiency of the native hunt should be taken into account in establishing the catch limit, and the third comment requested that the IWC catch level be in place until 1987.

NOAA evaluated comments received on the proposed allocation of strikes for the 1986 aboriginal/subsistence bowhead whale catch limit. Following discussion with the AEWC, the 1986 strike limit for the aboriginal/subsistence hunt of bowhead whales was established at 32.

Discussion of Comments:

The first comment received requested discussion of catch limits for bowhead whales below 26 strikes. Catch limits below 26 strikes were considered by NOAA but not discussed in the **Federal Register** notice because they would not satisfy the Alaskan Eskimo subsistence requirements. It has been determined by the Department of the Interior that 26

landed whales are necessary to meet the needs of the Eskimos. Thus the minimum number of strikes required would be 26. The IWC management scheme permits the establishment of aboriginal/subsistence catches so long as they are set at levels which allow whale stocks to move toward or maintain the maximum sustainable yield level. Therefore, an allocation of the catch limit as established by the IWC should provide for growth in the bowhead population.

The second comment requested discussion of the mortality rate of struck whales and potential recruitment into the bowhead population given the proposed strike level. Given the estimates of actual recruits into the population of 49–73 and 62–106 whales per year as cited in the **Federal Register**, the net recruitment, given a strike level of 32 whales, would be 17–41 and 30–74 whales recruited annually after strikes taken, assuming the greatest possible mortality rate, 100 percent, of whales struck.

In response to a comment related to the efficiency of the native hunt, the U.S. position on bowhead strike levels has been to seek the number of strikes that will be required to provide the Eskimos with their established need of 26 whales. Given the efficiency rate of 75 percent, that strike level is 35 strikes. That the Eskimos have not reached the 75 percent efficiency rate to date means that the Eskimo need has not been met and does not translate into a lower required strike level.

Finally, one comment requested that the strike level be established through 1987. The Cooperative Agreement specifies that the number of strikes be allocated to the AEWC on an annual basis. NOAA has chosen to allocate the strike limit annually because this provides for an annual review of the actual hunt and because the quota is subject to annual review by the IWC Scientific Committee.

After due consideration of these comments, NOAA has allocated the strike limit of 32 strikes to the Alaskan Eskimos by amendment to the Cooperative Agreement between NOAA and the AEWC.

Authority: Article 5, 62 Stat. 1718, sec. 2–14, 64 Stat. 421–425; 16 U.S.C. 916 *et seq.*.

Dated: April 23, 1986.

Carmen J. Blondin,

Deputy Assistant Administrator For Fisheries Resource Management National Marine Fisheries Service.

[FR Doc. 86–9391 Filed 4–25–86; 8:45 am]

BILLING CODE 3510–22–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishing Import Restraint Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products From Taiwan Effective on January 1, 1986; Correction

April 23, 1986.

In the letter to the Commissioner of Customs dated December 23, 1985 (50 FR 52988) TSUSA number 704.8550 should be deleted from footnote 2 and TSUSA number 386.5100, from footnote 10.

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–9424 Filed 4–25–86; 8:45 am]

BILLING CODE 3510–DR–M

Changes in Officials Authorized To Issue Certifications for Exempt Textile Products Exported From Peru

April 23, 1986

Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of January 3, 1986, between the Governments of the United States and Peru, the Government of Peru has notified the United States Government that Ruben Rodrigues Rendon and Sonia Romero Barrionuevo have been authorized to issue certifications for exempt textile products from Peru replacing Sara Zanabria Gutierrez. The following is a complete list of officials currently authorized to issue certifications:

Herbert Zarate Navarro.
Ruben Rodrigues Rendon.
Sara Briceno Gurreonero.
Sonia Romero Barrionuevo.

Leonard A. Mobley,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–9425 Filed 4–25–86; 8:45 am]

BILLING CODE 3510–DR–M

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education, Education.

ACTION: Notice of Closed Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of a forthcoming meeting of the Proposal Review Committee of the National Advisory Council on Indian Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES: May 15–16, 1986, 9:00 A.M. until conclusion of business each day.

ADDRESS: U.S. Department of Education, 400 Maryland Avenue, SW., Room 2177, Washington, DC 202/732–1887.

FOR FURTHER INFORMATION CONTACT: Lincoln C. White, Executive Director, National Advisory Council on Indian Education, 2000 L Street, NW., Suite 574, Washington, DC 20036 (202/634–6160).

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is established under section 442 of the Indian Education Act (20 U.S.C. 1221g). The Council is established to assist the Secretary in carrying out responsibilities under section 441(a) of the Indian Education Act (Title IV of Pub. L. 92–318), through advising Congress, the Secretary of Education, the Under Secretary of Education and the Assistant Secretary of Elementary and Secondary Education with regard to education programs benefiting Indian children and adults.

The Proposal Review Committee of the Council will meet in closed session starting at approximately 9:00 a.m., and will end at the conclusion of business each day, approximately 5:00 p.m. The agenda includes reviewing applications submitted under the Title IV, Indian Fellowship Program of the Indian Education Act. Under section 442(b)(2) of Part D of the Indian Education Act, the Council is authorized to review applications for assistance submitted under this program and to make recommendations to the Secretary of Education with respect to their approval.

The reviewing of applications must be held in the highest confidence until the announcement is released by proper authorities as to which projects will be funded. The premature disclosure of information discussed during the review process is likely to significantly frustrate impementation of agency action. Financial information which is privileged or confidential contained in and related to these proposals will be discussed at the review session. In addition, discussion will touch upon matters that would disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy if conducted in open session. Such matters are protected by exemptions (9), (4), and (6) of section 552b(c) of Title 5 U.S.C.

A summary of the activities of the closed meeting and related matters which are informative to the public consistent with the policy of Title 5

U.S.C. 552b will be available to the public within fourteen days of the meeting.

Dated: April 17, 1986.
Signed at Washington, DC

Lincoln C. White,

Executive Director, National Advisory Council on Indian Education.

[FR Doc. 86-9473 Filed 4-25-86; 8:45 am]

BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Restriction of Eligibility for Financial Assistance Award

AGENCY: Department of Energy (DOE).

ACTION: Notice of Restricted Eligibility for Financial Assistance Award.

SUMMARY: DOE announces that pursuant to 10 CFR 600.7(b), it intends to award on a restricted eligibility basis a cooperative agreement to the Companhia de Pesquisas E Lavras Minerais (COPELMI), Rio de Janeiro, Brazil, to support development of a feasibility study concerning the applicability of U.S. Underground Coal Gasification (UCG) technology to the coal deposits at Triumfo, Rio Grande Do Sul, Brazil. The DOE support for this effort is estimated at $1.7 million over an eighteen-month period.

Procurement Request No.: 01-86FE60877.000.

Project Scope: This cooperative effort is to be undertaken pursuant to the Memorandum of Understanding between the United States of America and the Federative Republic of Brazil of April 12, 1983. This cooperative effort is in furtherance of the Agreement for Exchange of Technical Information and Cooperation in the Field of Underground Coal Gasification between the United States Department of Energy and the Companhia Auxiliar of Empresas Electricas Brasileiras (CAEEB) dated January 21, 1985. The Brazilian Government has chosen the Companhia de Pesquisas E Lavras Minerais to represent CAEEB in the performance of this cooperative effort and placement of contracts with U.S. and Brazilian firms for the purpose of undertaking this project. U.S. funding for this effort is provided by the Trade Development Program Office of the International Development Cooperative Agency of the U.S. State Department.

This award provides major support for completion of a feasibility study relative to the application of underground coal gasification technologies to the high-ash, low-rank coals found in the southern portions of Brazil in the vicinity of the city of Porto Alegre. The feasibility study is a logical step in determining the advisability of pursuing development of an economically viable and commercially acceptable production facility.

In furtherance of the cooperation elicited in the referenced international agreements and advancement of underground coal gasification technologies to coal deposits otherwise uneconomical to mine, the DOE has determined that award to COPELMI on a restricted eligibility basis is appropriate.

FOR FURTHER INFORMATION CONTACT: James P. Beiriger, MA-452.1, U.S. Department of Energy, Office of Procurement Operations, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-1364.

Issued in Washington, D.C., on April 23, 1986.

David G. Newman,

Director, Office of Procurement Operations.

[FR Doc. 86-9478 Filed 4-25-86; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award Grant; Colorado State University

AGENCY: Department of Energy, San Francisco Operations Office.

ACTION: Notice of restriction of eligibility for grant award.

SUMMARY: DOE announces that it plans to award a Grant to Colorado State University, Solar Energy Applications Laboratory, in the amount of $390,000. The Statutory Authority authorizing the use of a grant award is Pub. L. 95-91, DOE Organization Act, and Pub. L. 93-577, Federal Non-Nuclear Energy Research and Development Act.

Scope of project: The proposed scope of the research is the testing, evaluation and optimization of solar cooling and heating components and systems in the three solar test houses at Colorado State University. Specific tasks include:

(1) The experimental testing and evaluation of a desiccant cooling and fresh air heating unit previously installed in the Solar House I system.

(2) Continuation of open cycle cooling research with the design, construction, operation, and analysis of a liquid desiccant dehumidifier coupled to a packed bed absorbent regenerator.

(3) Support data collection efforts for the control system and strategy work currently being conducted by Drexel University in Solar House III. Design, construct, operate, and analyze the performance of a boiling collector system.

(4) Continuation of Operating Agent responsibilities for the DOE for the International Energy Agency Solar Heating and Cooling Program task on Evacuated Collector Systems (Task VI).

FOR FURTHER INFORMATION CONTACT: Aundra Richards, Contracting Officer, CM Division, U.S. Department of Energy, San Francisco Operations Office, 1333 Broadway, Oakland, CA 94612.

Issued in San Francisco, California, April 15, 1986.

Donald W. Pearman, Jr.,

Acting Manager.

[FR Doc. 86-9397 Filed 4-25-86; 8:45 am]

BILLING CODE 6450-01-M

Financial Assistance Award Grant; University of Hawaii

AGENCY: Department of Energy, San Francisco Operations Office.

ACTION: Notice of restriction of eligibility for grant award.

SUMMARY: DOE announces that it plans to amend an existing Grant to the University of Hawaii, in the amount of $60,000. The Statutory Authority for use of a grant award is Pub. L. 94-91, DOE Organization Act, and Pub. L. 93-577, Federal Non-Nuclear Energy Research and Development Act.

Grant No. DE-FG03-85SF15799

Scope of Project

The University of Hawaii proposes to expand its geothermal research at the Puna Facility. Specifically, the proposed investigations will result in a better understanding of the scope and extent of the geothermal reservoir underlying the Puna area on the Big Island of Hawaii. The objective of the proposed research is to investigate the chemical and isotopic composition of fluids produced from the geothermal reservoir and to integrate the results into the existing geochemical, geological and geophysical data base to more precisely define the important characteristics of the Puna reservoir which may effect production and utilization of the resource.

This award of $60,000 to the University of Hawaii under the existing grant is intended for continuation of specific goal-oriented geothermal research. It is possible the application of the results of this research may extend the commercial life of the resource for a significant period of time.

The University of Hawaii has made substantial contributions to support the development and dissemination of geothermal resource data to the public sector so that private industry and others will be stimulated to utilized the geothermal resources of the State as an economic alternative to fossil fuels.

The University of Hawaii has published professional papers on its contributions to geothermal technology for a number of years. There is no other such source of unique, independent knowledge and competence in the State of Hawaii.

This award to the University on a restricted eligibility basis is appropriate.

FOR FURTHER INFORMATION CONTACT: Jane Hadly, U.S. Department of Energy, San Francisco Operations Office, Contracts Management Division, 1333 Broadway, Oakland, California 94612.

Issued in Oakland, California, April 8, 1986.

Donald W. Pearman, Jr.,

Acting Manager.

[FR Doc. 86-9398 Filed 4-25-86; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council; U.S. Refinery Capability Task Group Meeting

Notice is hereby given that the U.S. Refinery Capability Task Group will meet in May 1986. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The U.S. Refinery Capability Task Group will be addressing a current study of the capability of the U.S. refining industry. Its analysis and findings will be based on information and data to be gathered by the various task groups.

The U.S. Refinery Capability Task Group will hold its fourteenth meeting on Wednesday, May 7, 1986, starting at 8:30 a.m., in the Conference Room of the National Petroleum Council, 1625 K Street, NW., Washington, DC.

The tentative agenda for the U.S. Refinery Capability Task Group meeting follows:

1. Opening remarks by the Chairman and Government Cochairman.
2. Review of the work of the Task Group.
3. Discussion of any other matters pertinent to the overall assignment from the Secretary of Energy.

The meeting is open to the public. The Chairman of the U.S. Refinery Capability Task Group is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the U.S. Refinery Capability Task Group will be permitted to do so, either before or after the meeting. Members of the public who wish to make oral statements should inform Ms. Pat Dickinson, Office of Oil, Gas, Shale and Coal Liquids, Fossil Energy, 301/353-2430, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meeting will be available for public review at the Freedom of Information Public Reading Room, Room 1E-190, DOE Forrestal Building, 1000 Independence Avenue, SW., Washington, DC, between the hours of 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, DC, on April 17, 1986.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 86-9396 Filed 4-25-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. CP86-383-000 et al.]

Natural Gas Certificate Filings; Tennessee Gas Pipeline Co.

Correction

In FR Doc. 86-7779 beginning on page 11973 in the issue of Tuesday, April 8, 1986, make the following correction: On page 11977, in the second column, in filing 11, Tennessee Gas Pipeline Company, a Division of Tenneco Inc., the Docket No. should read "CP86-398-000".

BILLING CODE 1505-01

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL-3009-1]

Agency Information Collection Activities Under OMB Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Section 3507(a)(2)(B) of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*) requires the Agency to publish in the **Federal Register** a notice of proposed information collection requests (ICRs) that have been forwarded to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the solicitation and the expected impact, and where appropriate includes the actual data collection instrument. The following ICR is available for review and comment.

FOR FURTHER INFORMATION CONTACT: Patricia Minami, (202) 382-2712 or FTS 382-2712.

SUPPLEMENTARY INFORMATION:

Office of Air and Radiation

Title: New Source Performance Standards (NSPS) for Volatile Organic Compounds: Fugitive Emission Sources, Synthetic Organic Chemical Manufacturing Industry (EPA ICR #0662). (This is an extension of a previously approved ICR; no changes are proposed.)

Abstract: Owners or operators of new plants producing any organic chemical from a list of over three hundred must document their control of fugitive emission sources at various intervals. EPA and plant management use these records to ensure compliance with the standards.

Respondents: Owners or operators of plants which produce any organic chemicals listed in 40 CFR 60.489 (SIC 5161).

Comments on all parts of this notice may be sent to:

Patricia Minami, U.S. Environmental Protection Agency, Office of Standards and Regulations (PM-223), Information and Regulatory Systems Division, 401 M Street, SW., Washington, DC 20460

and

Wayne Leiss, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building (Room 3228), 726 Jackson Place, NW., Washington, DC 20503.

Dated: April 21, 1986.

Daniel J. Fiorino,

Acting Director, Information and Regulatory Systems Division.

[FR Doc. 86-9411 Filed 4-25-86; 8:45 am]

BILLING CODE 6560-50-M

[FRL 2988-1(b)]

Privacy Act of 1974; Revisions to Existing Systems of Records

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of revisions to existing systems of records.

SUMMARY: In accordance with the Privacy Act of 1974, EPA previously published system of records notices for the EPA-4 system of records (called "Inspection Branch Reports—EPA") and the EPA-5 system of records (called "Personnel Security File System—EPA"). Those notices were published at 40 FR 43194 (Sept. 18, 1975), 41 FR 39689 (Sept. 15, 1976), and 43 FR 3502 (Jan. 25, 1978). EPA is publishing this notice to

revise information in those notices which has become obsolete.

After Congress passed the Inspector General Act of 1978, 5 U.S.C. app., EPA created the Office of Inspector General (OIG), which maintains these two systems of records. This notice changes the name of the EPA–4 system of records to "OIG Criminal Investigative Index and Files—EPA/OIG" and the name of the EPA–5 system of records to "OIG Personnel Security Files—EPA/OIG." This notice also provides additional information about these revised systems of records.

DATE: This notice will be effective without further notice on June 27, 1986, unless EPA receives written comments which would result in a contrary determination.

ADDRESS: Assistant Inspector General for Management and Technical Assessment, Office of Inspector General (A–109), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Anna M. Virbick, Acting Assistant Inspector General for Management and Technical Assessment, (202) 382–4912.

Lee M. Thomas,

Administrator.

Dated: April 17, 1986.

EPA–4

SYSTEM NAME:

OIG Criminal Investigative Index and Files—EPA/OIG.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Assistant Inspector General for Investigations, Office of Inspector General (A–109), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals and entities who are or have been the subjects of investigations conducted by the OIG, including present and former EPA employees; present and former EPA grant recipients, consultants, contractors, and subcontractors and their employees; and other individuals and entites doing business with EPA.

CATEGORIES OF RECORDS IN THE SYSTEM:

a. *Criminal Investigative Index.* Selected information from each investigative file, indexed by case file numbers, names of the subjects of investigations, and the cities, States, and EPA regions in which the subjects were located.

b. *Hard Copy Files.* All information relating to investigations, including the information contained in the criminal investigative index; information provided by the subjects of investigations; information provided by individuals with whom the subjects are associated (e.g., fellow workers, business associates, acquaintances, or relatives); information provided by Federal, State, local, and foreign investigatory or law enforcement agencies, and other government agencies, information provided by witnesses and confidential sources; information from public source materials; investigative notes; summaries of telephone calls; correspondence; a copy of the investigative report; and information about referrals for criminal prosecutions, civil proceedings, and administrative actions taken with respect to the subjects.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Inspector General Act of 1978, 5 U.S.C. app.; 44 U.S.C. 3101, 3102; EPA Order 3120.1A, "Reporting, Investigation, and Prevention of Unethical or Illegal Conduct;" and EPA Manual 6500, "Functions and Activities of the Office of the Inspector General."

PURPOSE(S):

The records contained in the systems are used by the OIG in furtherance of the responsibilities of the Inspector General under the Inspector General Act of 1978 to conduct and supervise investigations relating to programs and operations of the EPA; to promote economy, efficiency, and effectiveness in the administration of such programs and operations; and to prevent and detect fraud and abuse in such programs and opeations. The records are used in investigations individuals and entities suspected of having committed illegal or unethical acts and in any resulting criminal prosecutions, civil proceedings, or adminsitrative actions. The records are used in debarment and suspension proceedings under assistance programs and direct procurements. The records are used in conducting investigations of employees, consultations, contractors, subcontractors, and applicants in connection with pesonnel security deteminations.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records in this system may be used and disseminated to further the purposes described above, the following routine uses apply to the records contained in this system:

a. A record may be disclosed to an individual or to a Federal, State, local, foreign, or international agency, when necessary to further the ends of an investigation.

b. If a record indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statue or particular program statute, or by rule, regulation, or order issued pursuant thereto, or if a record indicates a violation or potential violation of a contract, a record, may be disclosed to the appropriate agency, whether Federal, State, local, foreign, or international, charged with the responsibility of investigating or prosecuting such violation, or of enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, or or enforcing the contract.

c. If a record indicates a need to protect the interests of the Federal Government in a debarment or suspension proceeding, a record may be disclosed to the appropriate agency charged with protecting the interests of the Federal Government.

d. A record may be disclosed to a Federal, State, local, foreign, or international agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, if necessary to obtain information relevant to an EPA decision concerning the assignment, hiring, or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

e. A record may be disclosed to a Federal, State, local, foreign, or international agency, in response to its request, in connection with the assignment, hiring, or retention of an individual, the issuance of a security clearance, the reporting of an investigation of an individual, 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.

f. A record may be disclosed in a proceeding before a court or adjudicative body before which the EPA is authorized to appear, or in the course of settlement negotiations with opposing counsel, when—

(1) the EPA, or any component thereof; or (2) any employee of the EPA in his or her official capacity; or (3) any employee of the EPA in his or her individual capacity, where the EPA has

agreed to represent the employee; or (4) the United States, where the EPA determines that litigation is likely to affect the EPA or any of its components—

is a party to litigation or has an interest in such litigation, and the EPA determines that the use of such records is relevant and necessary to the litigation; provided, however, that in each case the EPA 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.

g. A record may be disclosed to a Member of Congress who submits an inquiry on behalf of an individual, when the Member of Congress informs the EPA System Manager that the individual to whom the record pertains has authorized the Member of Congress to have access to the record. In such cases, the Member of Congress has no more right to the record than does the individual.

h. A record may be disclosed to the Department of Justice to obtain its advice in determining whether EPA must disclose the record under the Freedom of Information Act, 5 U.S.C. 552.

i. A record may be disclosed to the Office of Management and Budget to obtain its advice in determining whether EPA must disclose the record under the Privacy Act of 1974, 5 U.S.C. 552a.

j. A record may be disclosed to a Federal agency which has the authority to subpoena other Federal agencies' records (e.g., the Internal Revenue Service or the United States Civil Rights Commission) and which has issued a valid subpoena for the record.

k. A record may be disclosed to the Department of Justice when—

(1) the EPA, or any component thereof; or (2) any employee of the EPA in his or her official capacity; or (3) any employee of the EPA in his or her individual capacity, where the Department of Justice has agreed or is considering a request to represent the employee; or (4) the United States, where the EPA determines that litigation is likely to affect the EPA or any of its components—

is a party to litigation or has an interest in such litigation, and the EPA determines that the use of such records by the Department of Justice is relevant and necessary to the litigation; provided, however, that in each case, the EPA determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

l. A record may be disclosed to the Department of the Treasury and the Department of Justice when EPA is seeking an *ex parte* court order to obtain taxpayer information from the Internal Revenue Service.

m. A record may be disclosed to commercial contractors (debt collection agencies) for the purpose of collecting delinquent debts, as authorized by the Debt Collection Act of 1982, 31 U.S.C. 3718.

n. A record may be disclosed to a "consumer reporting agency," as that term is defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) and the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)), for the purpose of obtaining information in the course of an investigation.

o. A record may be disclosed to a private firm which contracts with the EPA, to the extent that such records are relevant and necessary to the contractor's performance of the contract. The contractor shall be required to comply with the requirements of the Privacy Act of 1974, 5 U.S.C. 552a.

p. A record may be disclosed to the Administrator of General Services and the Archivist, or the designee of either, during an inspection of records management practices and programs being conducted under the authority of 44 U.S.C. 2904 and 2906.

q. A record may be disclosed to a Federal, State, or local agency for use in computer matching programs to prevent and detect fraud and abuse in benefit programs administered by those agencies, to support civil and criminal law enforcement activities of those agencies and their components, and to collect debts and overpayments owed to those agencies and their components. This routine use does not provide unrestricted access to records for such law enforcement and related antifraud activities. Each request for disclosure will be considered in accordance with the Computer Matching Guidelines, issued by the Office of Management and Budget (OMB) on May 11, 1982, published at 47 FR 21656 (May 19, 1982), and the Computer Match Checklist, issued by OMB on December 29, 1983, or any superseding guidance.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The criminal investigative index is stored on index cards and computer floppy disks. The hard copy files are stored in file folders. All records are stored under secure conditions, which are described in the Safeguards section.

RETRIEVABILITY:

Records in the criminal investigative index are retrieved by the last names of the subjects of investigations and by case numbers. Records in the hard copy files are retrieved by case file numbers.

SAFEGUARDS:

Direct access is limited to authorized staff of the Office of the Assistant Inspector for Investigations. Additional access within EPA is limited to authorized officials and employees on a need-to-know basis. All records, when not in the possession of an authorized individual, are stored in locked cabinets in a locked room with restricted access.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with EPA Records Control Schedules, Appendix B, Schedule 19 (pending approval of the National Archives and Records Administration).

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Investigations, Office of Inspector General (A–109), Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460.

NOTIFICATION PROCEDURES:

See Exemption section of this notice. EPA claims that the system is exempt from this requirement. However, EPA has promulgated rules which establish procedures for notifying an individual at his request if the system of records contains a record pertaining to him because, under certain circumstances, it might be appropriate for an individual to have access to all or a portion of his records in this system. Requests for notification should be made in writing to the System Manager in accordance with EPA's regulations at 40 CFR Part 16.

RECORD ACCESS PROCEDURES:

See Exemption section of this notice. EPA claims that the system is exempt from this requirement. However, EPA has promulgated rules which establish procedures for notifying an individual at his request how he can gain access to a record in a system of records pertaining to him because, under certain circumstances, it might be appropriate for an individual to have access to all or a portion of his records in this system. Requests for access should be made in writing to the System Manager in accordance with EPA's regulations at 40 CFR Part 16.

CONTESTING RECORD PROCEDURES:

See Record Access Procedures section of this notice.

RECORD SOURCE CATEGORIES:

See Exemption section of this notice. EPA claims that the system is exempt from this requirement. However, EPA is publishing the following generic list of categories of sources of records in this system: the subjects of investigations; individuals with whom the subjects of investigations ar associated (e.g., fellow workers, business associates, acquaintances, or relatives); Federal, State, local, or foreign investigatory or law enforcement agencies; other government agencies; confidential sources; witnesses; concerned citizens; and public source materials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(j)(2), this system is exempt from the following provisions of the Privacy Act of 1974: 5 U.S.C. 552a(c)(3) and (4); (d);(e) (1), (2), (3), (4) (G), (H), and (I), (5),and (8); (and (g). Pursuant to 5 U.S.C. 552a(k)(2), this system is exempt from the following provisions of the Privacy Act of 1974, subject to the limitations set forth in that subsection: 5 U.S.C. 552a (c)(3); (d); (e)(1), (4) (G), (H), and (I); and (f). Pursuant to 5 U.S.C. 552a(k)(5), this system is exempt from the following provisions of the Privacy Act of 1974, subject to the limitations set forth in that subsection: 5 U.S.C. 552a (c)(3); (d); (4) (H) and (I); and (f) (2) through (5). These exemptions were published as regulations in the **Federal Register**, in accordance with the requirements of 5 U.S.C. 553(b) (1), (2), and (3), (c), and (e). For additional information, contact the System Manager.

EPA-5

SYSTEM NAME:

OIG Personnel Security Files—EPA/OIG.

SECURITY CLASSIFICATION:

Most of the records in this system are unclassified. However, some records in the system are classified by other Federal Agencies at levels up to and including "secret" in accordance with Executive Order 12356.

SYSTEM LOCATION:

Assistant Inspector General for Management and Technical Assessment, Office of Inspector General (A-109), Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who are or have been the subjects of personnel security investigations (e.g., background investigations, national agency checks and inquiries, and periodic reinvestigations) conducted by the OIG or the Office of Personnel Management (OPM), including present and former EPA employees, consultants, contractors, and subcontractors in sensitive and nonsensitive positions; and applicants for sensitive positions within the EPA.

CATEGORIES OF RECORDS IN THE SYSTEM:

A. *Computerized Reference:* Selected information from some personnel security files, indexed by the subject's social security number, place of birth, type of investigation, date of investigation, agency which conducted the investigation, type of security clearance, date of security clearance, and sensitivity of the position occupied.

B. *Hard Copy Files:* All information relating to personnel security investigations, including information contained in the computerized reference; information provided by the subjects of investigations on forms SF-171, SF-85, SF-86, SF-87, OPM-329-A, and EPA-1480-40, and in interviews or correspondence; information provided by individuals with whom the subjects are associated (e.g., fellow workers, business associates, acquaintances, or relatives); information provided by Federal, State, local, or foreign investigatory or law enforcement agencies, or other government agencies; information provided by confidential sources; information provided by former employers, references named by the subjects, credit agencies, and educational institutions; pre-appointment investigative reports; summaries of telephone calls; correspondence; public source materials; and information about referrals for criminal prosecutions, civil proceedings, and administrative actions taken with respect to the subjects.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Executive Order 10450, as amended; Executive Order 12356; Atomic Energy Act of 1954, as amended, 42 U.S.C. 2165; Inspector General Act of 1978, 5 U.S.C. app.; 5 U.S.C. 301, 3301, 3302; 44 U.S.C. 3101, 3102; 5 CFR Parts 731 and 732; the OPM Federal Personnel Manual; EPA Manual 6500, "Functions and Activities of the Office of the Inspector General;" and EPA Delegations Manual 1-6-B, "Personnel Security."

PURPOSE(S):

The records contained in the system are used by the OIG to develop information on EPA employees, consultants, contractors, subcontractors, and applicants that will help the EPA determine suitability, eligibility, or qualifications for Federal civilian employment, Federal contracts, or access to classified information. To the extent that records in this system reveal a violation or potential violation of law, then such records would be used by the OIG in furtherance of the responsibilities of the Inspector General under the Inspector General Act of 1978 to conduct and supervise investigations relating to programs and operations of the EPA; to promote economy, efficiency, and effectiveness in the administration of such programs and operations; and to prevent and detect fraud and abuse in such programs and operations. Such records would be used in investigating individuals and entities suspected of having committed illegal or unethical acts and in any resulting criminal prosecutions, civil proceedings, or administrative actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The records in this system may be used and disseminated to further the purposes described above. The following routine uses apply to the records contained in this system:

a. A record may be disclosed to an individual or to a Federal, State, local, foreign, or international agency, when necessary to further the ends of an investigation.

b. If a record 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 issued pursuant thereto, or if a record indicates a violation or potential violation of a contract, a record may be disclosed to the appropriate agency, whether Federal, State, local, foreign, or international, charged with the responsibility of investigating or prosecuting such violation, or of enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, or of enforcing the contract.

c. A record may be disclosed to a Federal, State, local, foreign, or international agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, if necessary to obtain information relevant to an EPA decision concerning the assignment, hiring, or retention of an individual, the issuance of a security clearance, the letting of a contract, or the issuance of a license, grant, or other benefit.

d. A record may be disclosed to a Federal, State, local, foreign, or international agency, in response to its request, in connection with the assignment, hiring, or retention of an individual, the issuance of a security clearance, the reporting of an investigation of an individual, 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.

e. A record may be disclosed in a proceeding before a court or adjudicative body before which the EPA is authorized to appear; or in the course of settlement negotiations with opposing counsel, when—

(1) The EPA, or any component thereof; or (2) any employee of the EPA in his or her official capacity; or (3) any employee of the EPA in his or her individual capacity, where the EPA has agreed to represent the employee; or (4) the United States, where the EPA determines that litigation is likely to affect the EPA or any of its components—

is a party to litigation or has an interest in such litigation, and the EPA determines that the use of such records is relevant and necessary to the litigation; provided, however, that in each case the EPA 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.

f. A record may be disclosed to a Member of Congress who submits an inquiry on behalf of an individual, when the Member of Congress informs the EPA System Manager that the individual to whom the record pertains has authorized the Member of Congress to have access to the record. In such cases, the Member of Congress thas no more right to the record than does the individual.

g. A record may be disclosed to the Department of Justice to obtain its advice in determining whether EPA must disclose the record under the Freedom of Information Act, 5 U.S.C. 552.

h. A record may be disclosed to the Office of Management and Budget to obtain its advice in determining whether EPA must disclose the record under the Privacy Act of 1974, 5 U.S.C. 552a.

i. A record may be disclosed to a Federal agency which has the authority to subpoena other Federal agencies' records (e.g., the Internal Revenue Service or the United States Civil Rights Commission) and which has issued a valid subpoena for the record.

j. A record may be disclosed to the Department of Justice when—

(1) The EPA, or any component thereof; or (2) any employee of the EPA in his or her official capacity; or (3) any employee of the EPA in his or her individual capacity, where the Department of Justice has agreed or is considering a request to represent the employee; or (4) the United States, where the EPA determines that litigation is likely to affect the EPA or any of its components—

is a party to litigation or has an interest in such litigation, and the EPA determines that the use of such records by the Department of Justice is relevant and necessary to the litigation; provided, however, that in each case, the EPA determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

k. A record may be disclosed to the Department of the Treasury and the Department of Justice when EPA is seeking an *ex parte* order to obtain taxpayer information from the Internal Revenue Service.

l. A record may be disclosed to commercial contractors (debt collection agencies) for the purpose of collecting delinquent debts, as authorized by the Debt Collection Act of 1982, 31 U.S.C. 3718.

m. A record may be disclosed to a "consumer reporting agency," as that term is defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) and the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)), for the purpose of obtaining information in the course of a personnel security investigation.

n. A record may be disclosed to a private firm which contracts with the EPA, to the extent that such records are relevant and necessary to the contractor, performance of the contract. The contractor shall be required to comply with the requirements of the Privacy Act of 1974, 5 U.S.C. 552a.

o. A record may be disclosed to the Administrator of General Services and the Archivist, or the designee of either, during an inspection of records management practices and programs being conducted under the authority of 44 U.S.C. 2904 and 2906.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The computerized reference is stored on bound computer printout sheets. The hard copy files are stored in file folders. All records are stored under secure conditions, which are described in the Safeguards section.

RETRIEVABILITY:

Records in the computerized reference are retrieved by the social security numbers of the subjects of personnel security investigations. Records in the hard copy files are retrieved by the last names of the subjects of personnel security investigations.

SAFEGUARDS:

Direct access is limited to authorized employees of the Personnel Security Staff, Office of the Assistant Inspector General for Management and Technical Assessment. Additional access within EPA is limited to authorized officials and employees on a need-to-know basis. All records, when not in the possession of an authorized individual, are stored in file cabinets or safes and/or in a locked central file room with restricted access. Classified records are stored in accordance with Executive Order 12356.

RETENTION AND DISPOSAL:

Records are retained and disposed of in accordance with EPA Records Control Schedules, Appendix B, Schedule 19 (pending approval of the National Archives and Records Administration).

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Inspector General for Management and Technical Assessment, Office of Inspector General (A–109) Environmental Protection Agency, 401 M Street, SW., Washington, D.C. 20460.

NOTIFICATION PROCEDURES:

See Exemption section of this notice. EPA claims that the system is exempt from this requirement to the exent that the system contains investigatory material compiled for law enforcement purposes. EPA also claims that the system is exempt from this requirement to the extent that the system contains records which are specifically authorized under criteria established by Executive Order 12356 to be kept secret in the interest of national defense or foreign policy and which are in fact properly classified pursuant to that

Executive order. However, EPA has promulgated rules which establish procedures for notifying an individual at his request if the system of records contains a record pertaining to him because, under certain circumstances, it might be appropriate for an individual to have access to all or a portion of his records in this system. Requests for notification should be made in writing to the System Manager in accordance with EPA's regulations at 40 CFR Part 16.

RECORD ACCESS PROCEDURES:

See Exemption section of this notice. EPA claims that the system is exempt from this requirement. However, EPA has promulgated rules which establish procedures for notifying an individual at his request how he can gain access to a record in a system of records pertaining to him because, under certain circumstances, it might be appropriate for an individual to have access to all or a portion of his records in this system. Requests for access should be made in writing to the System Manager in accordance with EPA's regulations at 40 CFR Part 16.

CONTESTING RECORD PROCEDURES:

See Record Access Procedures section of this notice.

RECORD SOURCE CATEGORIES:

See Exemption section of this notice. EPA claims that the system is exempt from this requirement. However, EPA is publishing the following generic list of categories of sources of records in this system: the subjects of personnel security investigations; individuals with whom the subjects are associated (e.g., fellow workers, business associates, acquaintances, or relatives); Federal, State, local, or foreign investigatory or law enforcement agencies; other government agencies; confidential sources; former employers; references named by the subjects; credit agencies; educational institutions; and public source materials.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(k)(l), this system is exempt from the following provisions of the Privacy Act of 1974: 5 U.S.C. 552a (c)(3); (d); (e)(l), (4) (G), (H), and (I); and (f). Pursuant to 5 U.S.C. 552a(k)(2), this system is exempt from the following provisions of the Privacy Act of 1974, subject to the limitations set forth in that subsection: 5 U.S.C. 552a (c)(3); (d); (e)(1), (4) (G), (H), and (I); and (f). Pursuant to 5 U.S.C. 552a(k)(5), this system is exempt from the following provisions of the Privacy Act of 1974, subject to the limitations set forth in that subsection: 5 U.S.C. 552a (c)(3); (d); (e)(1), (4) (H) and (I); and (f) (2) through (5). These exemptions were published as regulations in the **Federal Register**, in accordance with the requirements of 5 U.S.C. 553(b) (1), (2), and (3), (c), and (e). For additional information, contact the System Manager.

[FR Doc. 86-9407 Filed 4-25-86; 8:45 am]

BILLING CODE 6560-50-M

[FRL 2988-1(c)]

Privacy Act of 1974; Proposed New System of Records

AGENCY: Environmental Protection Agency.

ACTION: Notice—Privacy Act of 1974, Proposed new system of records.

SUMMARY: Pursuant to the provision of the Privacy Act of 1974, (5 U.S.C. 552a) notice is hereby given that the U.S. Environmental Protection Agency (EPA) proposes to establish and maintain a new system of records. The proposed system is "Criminal Investigative Index and Files." Personnel of EPA's National Enforcement Investigation Center's Office of Criminal Investigation (OCI) will use the records to aid the criminal investigations of violations of federal environmental statute and regulations.

In the Proposed Rules section to today's **Federal Register**, EPA proposes to exempt the system from various provision of 5 U.S.C. 552a, including the access provision of subsection (d). The Privacy Act provides that Congress and the Office of Management and Budget (OMB) be notified of proposed systems of records and that the public be given a 30-day period in which to comment on the routine uses of the system. In addition, OMB requires a 60-day period in which to review the system before it is implemented. Therefore, the Congress, the public and OMB are invited to submit written comments on this system.

DATES: This notice will become effective without further notice on June 27, 1986, unless EPA receives written comments which would result in a contrary determination.

For Further information and to submit comments contact: John M. Lattimer, Enforcement Specialist Office, National Enforcement Investigations Center, U.S. Environmental Protection Agency, Denver Federal Center, Building 53, Box 25227, Denver, Colorado 80225, Telephone: 303-236-5128.

Dated: April 17, 1986.

Lee M. Thomas,

Administrator.

EPA—NEIC-OCI-17

SYSTEM NAME:

NEIC Criminal Investigative Index and Files EPA/NEIC/OCI.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

National Enforcement Investigations Center (NECI), Building 53, Denver Federal Center, Denver, CO 80225.

NEIC Office of Criminal Investigations, Washington Staff Office (LE-134C), 401 M Street, SW, Washington, DC 20460.

NEIC Office of Criminal Investigations, Philadelphia Area Office, EPA-Region III (3CE00), 841 Chestnut Building, Philadelphia, PA 19107.

NEIC Office of Criminal Investigations, Boston Resident Office, EPA-Region I, 60 Westview Street, Lexington, MA 02173.

NEIC Office of Criminal Investigations, New York Resident Office, EPA-Region II, 26 Federal Plaza, New York, NY 10278.

NEIC Office of Criminal Investigations, Atlanta Area Office, EPA-Region IV, 345 Courtland Street, NE, Atlanta, GA 30365.

NEIC Office of Criminal Investigations, Dallas Resident Office, EPA-Region VI, Earle Cabell Federal Bldg., Room 3A-8, Dallas, TX 75242.

NEIC Office of Criminal Investigations, Chicago Area Office, EPA-REgion V, 230 South Dearborn Street, Chicago, IL 60604.

NEIC Office of Criminal Investigations, Kansas City Resident Office, EPA-Region VII, 726 Minnesota Avenue, Kansas City, KS 64107.

NEIC Office of Criminal Investigations, Seattle Area Office, EPA-Region X, 1200 Sixth Avenue (M/S 614), Seattle, WA 98101.

NEIC Office of Criminal Investigations, San Francisco Resident Office, EPA-Region IX, 215 Fremont Street, San Francisco, CA 94105.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals included in the system are those on whom data has been collected by criminal investigators of the National Enforcement Investigation Center's (NEIC) Office of Criminal Investigations (OCI) and assembled in the form of investigative reports in the course of investigations conducted concerning violations of federal environmental

statutes and regulations. Such individuals may be actual subjects of the investigation, or persons associated with the subject (e.g. relatives, business partners, acquaintances) or witnesses. Names of the OCI criminal investigators who participate in the subject investigation also appear in the system.

CATEGORIES OF RECORDS IN SYSTEM:

a. *Index.* The computer enhanced index system contains selected information from the criminal investigative file. Such information includes, but is not limited, to personal data (e.g. name, address, telephone number); prior/secondary residences; vehicle information; associated persons (name and role); driver licenses/aliases; associated companies (name and role); identifying numbers (number type, number and brief description); corporate data (company name, address, telephone number); corporate vehicle information; associated persons and companies; corporate identifying numbers; case information (e.g. case opened, date referred to EPA); criminal investigator's comments; criminal investigator's name and office; dissemination information (e.g. agency requesting information); and other related investigative information.

b. *Hard Copy File* The hard copy file contains all information relating to an investigative matter. In addition to the information contained in the computer enhanced index system, the hard copy files contain, but are not limited to, correspondence (case coordination reports, memos of conversations, and other records of communication relating to theinvestigation); interviews (witness interviews and statements generated by either an OCI agent or another agency or person); regulatory history (permits and reports generated as a result of normal program activity); technical support (program reports generated as a result of the investigation); investigative notes; electronic monitoring (reports requesting permission and use, transcripts of tapes); Records check (personal history police information, fingerprint cards); photographs; property reports (property obtained and retained by OCI including documents, personal property and physical evidence); manifests; and other related investigative information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. § 9604; Resource Conservation and Recovery Act, 42 U.S.C. 6927; Federal Water Pollution Control Act, 33 U.S.C. 1318; Toxic Substances Control Act, 15 U.S.C. 2610; Clean Air Act, 42 U.S.C. 7414; Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 136g; Safe Drinking Water Act, 42 U.S.C. § 300j–4; Noise Control Act of 1972, 42 U.S.C. 4912; and Title 28, U.S. Code, Section 533 with appointment letter from Civiletti, Attorney General to Costle, Administrator EPA dated January 16, 1981.

PURPOSE(S):

Records maintained in the system will be used by OCI criminal investigators for the purpose of supporting and furthering their investigations of persons or firms who allegedly knowingly or willfully violated any environmental statute or regulation.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

1. Information in this system may be disclosed as a routine use to any Federal, State or local government agency directly engaged n the criminal justice process where access is related to a law enforcement function of the recipient agency in connection with the tracking, identification and prosecution of persons or companies believed to have knowingly or willfully violated any environmental statute or regulation.

2. In the event the Agency deems it desirable or necessary, in determining whether particular records are required to be disclosed under the Freedom of Information Act, disclosure may be made to the Department of Justice for the purpose of obtaining its advice.

3. Where federal agencies having the power to subpoena other federal agencies' records, such as the Internal Revenue Service or the Civil Rights Commission, issue a subpoena to the Agency for records in this system of records, the agency will make such records available.

4. A record may be disclosed to the Department of Justice when (1) the EPA, or any component thereof; or (2) any employee of the EPA in his or her official capacity, or (3) any employee of the EPA in his or her individual capacity, where the Department of Justice has agreed or is considering a request to represent the employee; or (4) the United States, where the EPA determines that litigation is likely to affect the EPA or any of its components, is a party to litigation or has an interest in such litigation, and the EPA determines that the use of such records by the Department of Justice is relevant and necesary to the litigation; provided, however, that in each case, the EPA determines that disclosure of the records to the Department of Justice is a use of the information contained in the records that is compatible with the purpose for which the records were collected.

5. Also see Prefatory Statement of General Routine Uses, 41 FR 39689 (September 15, 1976) for other routine uses applicable to this system of records.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The system is maintained in hard-copy files with selected portions also stored in computer disks.

RETRIEVABILITY:

Hard copy files are maintained in the chronological order of the case file number assigned to it and retrieved by case file number. Information on individuals may be accessed by cross referencing with computer index.

The computer enhanced index system is retrievable by case file number or case title, the name of an individual, company name, drivers license, vehicle tag or vehicle identification number, identifying number (EPA permit number) agent name and freestyle (string of letters from one to forty letters long).

SAFEGUARDS:

Only OCI employees and employees of NEIC's Enforcement Specialist Office are authorized to access the system. Hard copy files, when not in the possession of an authorized individual, are maintained in a locked cabinet. The computer index is protected from access by a unique identifier password known only to the authorized persons. The index system also maintains a user log which identifies and records who uses the system. Both the computer and cabinets are in locked rooms in a building with restricted access.

RETENTION AND DISPOSAL:

All investigative files are maintained in accordance with the provisions of the pending EPA Records Control Schedule for Regional Enforcement records (Appendix D, Schedule 4, Item 16).

SYSTEM MANAGER AND ADDRESS:

Assistant Director for Criminal Investigations, Environmental Protection Agency, NEIC, Box 25227, Denver, Colorado 80225.

NOTIFICATION PROCEDURE:

Requests for notification should be made in writing and be addressed to the System Manager. The requester should include his full name, complete address, date of birth, and a notarized statement that the requestor is the individual to

whom the pertains and that he understands it is a misdemeanor to knowingly and willfully seek to obtain access to records about another individual under false pretenses. The request should also include the general subject matter of the record or records in question or the record file number along with any other known information which may assist EPA in searching for the records. Additional information or requirements, if any, will be provided by the System Manager.

RECORD ACCESS PROCEDURE:

Same as Notification Procedures.

CONTESTING RECORD PROCEDURES:

Same as Access Procedure. In addition, the requester should state the corrective action sought and supporting justification for the correction.

RECORD SOURCE CATEGORIES:

Information is obtained from other government agencies, law enforcement agencies, the general public, subjects of investigation, informants, witnesses, public source materials, and other persons and entities with information potentially relevant to an investigation.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

Pursuant to 5 U.S.C. 552a(j)(2) this system is exempt from the following provisions of the Privacy Act: 5 U.S.C. 552a(c) (3) and (4); (d); (e) (1), (2), (3), (4) (G), (H), and (I), (5) and (8); (f); and (g). Pursuant to 5 U.S.C. 552a(k)(2), this system is exempt from the following provisions of the Privacy Act: 5 U.S.C. 552a(c)(3); (d), (e)(1), (4)(G), (H) and (I); and (f) of the Privacy Act. Regulations have been promulgated and published in the **Federal Register** concurrent with this Notice in accordance with the requirements of 5 U.S.C. 553 (b), (c) and (e). These exemptions will only be used to the extent necessary to ensure the effectiveness of EPA's criminal enforcement program.

[FR Doc. 86-9408 Filed 4-25-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL COMMUNICATIONS COMMISSION

Public Information Collection Requirement Submitted to the Office of Management and Budget for Review

April 23, 1986.

The Federal Communications Commission has submitted the following information collection requirement to OMB for review and clearance under the Paperwork Reduction Act of 1980, Pub. L. 96-511 (44 U.S.C. 3507).

Copies of this submission are available from the Commission by calling Doris R. Benz, (202) 632-7513. Persons wishing to comment on this information collection should contact David Reed, Office of Management and Budget, Room 3235 NEOB, Washington, DC 20503, (202) 395-7231.

Title: Emergency Broadcast System (EBS) Questionnaire.

Action: New (One-time survey).

Respondents: Radio and television stations in Massachusetts.

Estimated Annual Burden: 200 Responses; 34 Hours.

The questionnaire is to be completed by commercial and noncommercial radio and television stations in Massachusetts. The data will be sent to the State Emergency Communications Committee (SECC).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-9450 Filed 4-25-86; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of 3067-0116.

Title: Procurement Solicitations Issued by FEMA.

Abstract: FEMA, Acquisition Management's information collection requirements continue to be necessary under the Federal Procurement Regulations (FPR), superceded by the Federal Acquisition Regulations, and modifications to FPR contracts. The number of information requirements under FPR contracts decreases as FPR contracts are completed.

Type of Respondents: State or Local Governments, Businesses or other for-profit, Federal agencies or employees, Non-profit institutions, Small businesses or organizations.

Number of Respondents: 1.

Burden Hours: 23,588.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C Street SW., Washington, D.C. 20472.

Comments should be directed to Mike Weinstein, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Rm. 3235, New Executive Office Building, Washington, D.C. 20503.

Walter A. Girstantas,

Director, Administrative Support.

[FR Doc. 86-9376 Filed 4-25-86; 8:45 am]

BILLING CODE 6718-01

Agency Information Collection Submitted to the Office of Management and Budget for Clearance

The Federal Emergency Management Agency (FEMA) has submitted to the Office of Management and Budget the following information collection package for clearance in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Type: Extension of 3067-0123.

Title: State and Local Emergency Operations Plans.

Abstract: State and local emergency operations plans (EOP's) are necessary to facilitate a coordinated and effective response to containment of and recovery from major disasters or emergency situations.

Type of Respondents: State or Local Governments.

Number of Respondents: 950.

Burden Hours: 105,000.

Copies of the above information collection request and supporting documentation can be obtained by calling or writing the FEMA Clearance Officer, Linda Shiley, (202) 646-2624, 500 C Street, SW., Washington, DC 20472.

Comments should be directed to Mike Weinstein, Desk Officer for FEMA, Office of Information and Regulatory Affairs, OMB, Rm. 3235, New Executive Office Building, Washington, DC 20503.

Walter A. Girstantas,

Director, Administrative Support.

[FR Doc. 86-9377 Filed 4-25-86; 8:45 am]

BILLING CODE 6718-01-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

Maritme Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 021–003079–007.
Title: Tampa Port Authority Lease Agreement.
Parties:
Tampa Port Authority
Eller & Company, Inc.
Synopsis: The proposed amendment would modify the agreement to provide for the lease of an additional 1.280 acres of bare land for a period of 25 years.

Agreement No.: 224–003985–005.
Title: Port of Seattle Terminal Agreement.
Parties:
Port of Seattle (Port)
Seacon Terminals, Inc. (Lessee)
Synopsis: The proposed amendment would reduce the leased premises by 3.1811 acres which are superfluous to the Lessee's needs, but can be used in connection with other Port facilities.

Agreement No.: 024–004008–004.
Title: Port of Oakland and Marine Terminals Corporation Management Agreement.
Parties:
Port of Oakland (Port)
Marine Terminals Corporation (MTC)
Synopsis: The proposed amendment would modify the agreement to provide a constructed method of calculating container crane hours for purposes of the crane usage compensation quota of 3000 hours in a contract year and to allow an additional reimbursement credit to MTC for its cost for certain permanent improvments made to the assigned premises in the sun of $21,017.00.

Agreement No.: 202–007540–045.
Title: United States Atlantic and Gulf/Southeastern Caribbean Conference.
Parties:
Puerto Rico Maritime Shipping Authority Sea-land Service, Inc.
Shipping Corporation of Trinidad and Tobago Ltd.
Synopsis: The proposed amendment would delete Barbados, Surinam and Guyana from the scope of the agreement and change the number of days that members have to respond to telephone and telex polls. The parties have requested a shortened review period.

Agreement No.: 202–010693–010.
Title: Florida/Caribbean Liner Association.
Parties:
Bernuth Lines Ltd.
Tecmarine Lines, Inc.
West Indies Shipping Corp.
Shipping Corporation of Trinidad and Tobago Sea-Land Service, Inc.
Concorde Caribe Lines, Ltd.
Synopsis: The proposed amendment would modify the agreement to provide that a party may take independent action effective upon one (1) calendar day's notice in lieu of seven (7) calendar days' notice to the Association Executive Director. The parties have requested a shortened review period.

Agreement No.: 224–010915
Title: Port of Portland Terminal Agreement
Parties:
Port of Portland (Port)
Nippon Yusen Kaisha, Ltd. (Lines)
Showa Line, Ltd. (Lines)
Synopsis: The proposed amendment would provide for the preferential use by the Lines of 7 acres of container yard and 2 container cranes. The preferential berthing period shall be for a fixed 48-hour period each week. The Port will perform all terminal stevedore services, vessel stevedoring, and services required in the movement of containers and cargo on or over the premises. The Lines agree to pay for these services in accordance with Port of Portland Terminal Tariff. The Lines will compensate the Port at a minimum annual fee of $500,000, for the first year and escalating on an annual basis thereafter. Revenue from dockage, wharfage, wharf demurrage, and storage paid by the Lines on their vessels and cargoes will be applied against the minimum annual guarantee. Revenues are to be shared between the Port and the Lines according to a formula set forth in the agreement. The term of the agreement is two years with renewal periods of one year each.

Agreement No.: 226–010916.
Title: Global Equipment Management Agreement.
Parties:
The East Asiatic Co. Ltd. A/S
Johnson Line AB
Rederiaktiebolaget Transatlantic
Wilh. Wilhelmsen Limited A/S
Barber Blue Sea
EAC–PNSL Service Ltd.
EAC Lines Trans Pacific Service Ltd.
Johnson Scanstar
Pacific Australia Direct Line
Rederiaktiebolaget Transocean
Synopsis: The proposed agreement would authorize the parties to be shareholders in an organization incorporated under the name Global Equipment Management Limited for purposes of the worldwide management and control of empty containers, and other equipment used in connection therewith, utilized by the parties. The parties have requested a shortened review period.

Agreement No.: 224–010917.
Title: Port of Vancouver Terminal Agreement.
Parties:
The Port of Vancouver (Port)
Hoegh Lines (Hoegh)
Synopsis: The proposed agreement would provide for the sharing of terminal revenues as a result of Hoegh's agreement to designate the Post as its Columbia River port of call. The agreement would be effective for an initial period of one year with an option for a year's extension.

By order of the Federal Maritime Commission.

Dated: April 23, 1986.

John Robert Ewers,

Secretary.

[FR Doc. 86–9444 Filed 4–25–86; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License; Revocations; Mark V. Systems, Inc.

Notice is hereby given that the following ocean freight forwarder license has 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 Part 510.

License Number: 2200.
Name: Mark V. Systems, Inc.
Address: 145 Hook Creek Blvd., Valley Stream, NY 11581.
Date Revoked: April 18, 1986.
Reason: Surrendered license voluntarily.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 86–9442 Filed 4–25–86; 8:45 am]

BILLING CODE 6730–01–M

Ocean Freight Forwarder License; Reissuance of License; New York Forwarding Services, Inc., et al.

Notice is hereby given that the following ocean freight forwarder licenses have 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 Part 510.

License No.	Name and Address	Date Reissued
2769	New York Forwarding Services, Inc., 1901 Linden Avenue, Unit #12, Linden, NJ 07036.	Apr. 9, 1986.
34-R	Magnolia Forwarding Co., Inc., 935 Industry Road, Bay 2, Kenner, LA 70062.	Apr. 11, 1986.

Robert G. Drew,

Director, Bureau of Tariffs.

[FR Doc. 86-9443 Filed 4-25-86; 8:45 am]

BILLING CODE 6730-01-M

Licensing of Ocean Freight Forwarders; Filing of Petition to Amend Rules

April 23, 1986.

Notice is hereby given that a petition has been filed by the National Customs Brokers & Forwarders Association of America, Inc. (the Association), requesting the Commission to amend its rules pertaining to the licensing of ocean freight forwarders (46 CFR Part 510).

Specifically, the Association seeks amendments to the requirements regarding changes in a licensee's organization (§510.19); provisions relating to forwarding by ocean common carriers, non-vessel operating common carriers, or an agent of either (§510.4), payment of compensation to freight forwarders; liability of freight forwarders for ocean freight charges; reduced forwarding fees (§510.22(i)); and provisions relating to disclosure of forwarder charges (§510.22(g)).

In order for the Commission to make a thorough evaluation of the petition, intersted persons are requested to submit views, arguments or data on the petition no later than May 30, 1986. Responses shall be directed to the Secretary, Federal Maritime Commission, Washington, DC 20573, in an original and 15 copies. Responses shall also be served on counsel for the Association: Gerald H. Ullman, P.C., 40 Exchange Place, Suite 1300, New York New York 10005.

Copies of the petition are available for examination at the Washington, DC office of the Commission, 1100 L Street, NW., Room 11101.

John Robert Ewers,

Secretary.

[FR Doc. 86-9475 Filed 4-25-86; 8:45 am]

BILLING CODE 6730-01-M

Ocean Freight Forwarder License; Applicants

Notice is hereby given that the following person has filed an application for license as an ocean freight forwarder with the Federal Maritime Commission pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718) and 46 CFR Part 510.

Persons knowing of any reason why the following person should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Uniport Co., Inc., 55 Amity Street, Jersey City, NJ 07304, Officer: John Choi, Director/President.

By the Federal Maritime Commission.

Dated: April 23, 1986.

John Robert Ewers,

Secretary.

[FR Doc. 86-9441 Filed 4-25-86; 8:45 am]

BILLING CODE 6730-01-M

[Agreement No. 024-010835-001]

The Port of Portland Terminal Agreement; Erratum

The **Federal Register** Notice of April 17, 1986 (Vol. 51, No. 74, page 13094) stated that the above-named agreement was filed with the Commission pursuant to section 15 of the Shipping Act, 1916, and section 5 of the Shipping Act of 1984. The agreement was inadvertently noticed as being subject to both Acts but should have been noticed pursuant to section 5 of the Shipping Act of 1984 only.

By Order of the Federal Maritime Commission.

Dated: April 23, 1986.

John Robert Ewers,

Secretary.

[FR Doc. 86-9440 Filed 4-25-86; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL MEDIATION AND CONCILIATION SERVICE

President's Advisory Committee on Mediation and Conciliation; Meeting

Pursuant to section 10 of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the President's Advisory Committee on Mediation and Conciliation will be held on May 13, 1986, from 9:00 a.m. to 5:00 p.m. in Room 538 of the Commodity Futures Trading Commission, 2033 K Street, NW., Washington, DC 20581.

The purpose of the meeting is to obtain the views of representatives of labor and management, and other qualified individuals, on the present state of arbitration in the resolution of labor-management disputes. A hearing procedure will be followed in which the views of witnesses will be transcribed for the record.

The meeting will be open to the public. Interested persons may file written statements with the Committee. Subject to reasonable Committee procedures, interested persons may also make oral statements on matters germane to subjects under consideration at the meeting.

Further information regarding this meeting can be obtained from Mr. Dennis R. Minshall, Executive Director, President's Advisory Committee on Mediation and Conciliation, Federal Mediation and Conciliation Service, 2100 K Street, NW., Washington, DC 20427, or call (202) 653-5290.

Dated: April 23, 1986.

Duane M. Buckmaster,

Deputy Director, Federal Mediation and Conciliation Service.

[FR Doc. 86-9454 Filed 4-25-86; 8:45 am]

BILLING CODE 6372-01-M

FEDERAL RESERVE SYSTEM

Acquisition of Company Engaged in Permissible Nonbanking Activities; Citizens Financial Group, Inc.

The organization listed in this notice has 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 closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the

reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than May 19, 1986.

A. **Federal Reserve Bank of Boston** (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. **Citizens Financial Group, Inc.,** Providence, Rhode Island; to acquire Gulf States Mortgage Co., Inc., Atlanta, Georgia, and thereby engage in making, acquiring and servicing residential mortgage loans secured by first and second mortgages on residential real estate and commercial mortgage loans pursuant to § 225.25(b)(1) of Regulation Y. Company will also engage in the sale, as agent, of credit life, credit accident and health and credit disability insurance in connection with extensions of credit by Company pursuant to § 225.25(b)(8) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, April 22, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-9358 Filed 4-25-86; 8:45 am]

BILLING CODE 6210-01-M

Formations of; Acquisitions by; and Mergers of Bank Holding Companies; Espanola De Finanzas, S.A., et al.

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 veiws 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 May 19, 1986.

A. **Federal Reserve Bank of New York** (A. Marshall Puckett, Vice President) 33 Liberty Street, New York, New York 10045:

1. *Espanola De Finanzas, S.A.,* Barcelona, Spain; to become a bank holding company by acquiring 40 percent of the voting shares of Espanola De Finanzas Trust Company, Inc., Hato Rey, Puerto Rico.

B. **Federal Reserve Bank of Philadelphia** (Thomas K. Desch, Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Susquehanna Bancshares, Inc.,* Litiz, Pennsylvania; to acquire 100 percent of the voting shares of Williamsport National Bank, Williamsport, Pennsylvania.

C. **Federal Reserve Bank of St. Louis** (Delmer P. Weisz, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *Banterra Corp.,* Eldorado, Illinois; to acquire 100 percent of the voting shares of Norris City State Bank, Norris City, Illinois.

2. *Lakes Capital Corp.,* Water Valley, Mississippi; to become a bank holding company by acquiring at least 80 percent of the voting shares of Bank of Water Valley, Water Valley, Mississippi. Comments on this application must be received not later than May 21, 1986.

3. *Security Bancshares, Inc.,* Des Arc, Arkansas; to become a bank holding company by acquiring at least 80 percent of the voting shares of Farmers and Merchants Bank, Des Arc, Arkansas.

D. **Federal Reserve Bank of Dallas** (Anthony J. Montelaro, Vice President) 400 South Akard Street, Dallas, Texas 75222:

1. *Independent Community Financial Corporation,* Dallas, Texas; to acquire 100 percent of the voting shares of Coppell Financial Corporation, Dallas, Texas, and thereby indirectly acquire Independent Bank-Coppell, N.A., Coppell, Texas.

2. *Independent Community Financial Corporation,* Dallas, Texas, to acquire 100 percent of the voting shares of Independent Bank, N.A., Dallas, Texas.

Board of Governors of the Federal Reserve System, April 22, 1986.

James McAfee,

Associate Secretary of the Board.

[FR. 86-9359 Filed 4-25-86; 8:45 am]

BILLING CODE 6210-01-M

Applications To Engage de novo in Permissible Nonbanking Activities; Firstbank Holding Co. of Colorado et al.

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 commerce or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity. Unless otherwise noted, such activities will be conducted throughout the United States.

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 expressed 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 May 16, 1986.

A. **Federal Reserve Bank of Kansas City** (Thomas M. Hoenig, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

1. *First Bank Holding Company of Colorado,* Lakewood, Colorado; to engage directly in the activity of issuance and sale of variably denominated "official checks" or similar instruments with no limitation as to maximum face value. Applicant also proposes to issue domestic orders with a maximum face value of up to $10,000.

2. *Nebraska National Corporation,* Omaha, Nebraska; to engage directly in the sale of all lines of insurance except life insurance and annuities pursuant to

section 4(c)(8)(F) of the Bank Holding Company Act of 1956, as amended.

Board of Governors of the Federal Reserve System, April 22, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-9360 Filed 4-25-86; 8:45 am]

BILLING CODE 6210-01-M

National Westminster Bank PLC; Correction

This notice corrects a previous **Federal Register** document (FR Doc. 86-8714), published at page 13291 of the issue for Friday, April 18, 1986.

1. National Westminster Bank PLC, London, England, and Natwest Holdings, Inc., New York, New York; to engage *de novo* through their subsidiary County Natwest Government Securities, Inc., New York, New York, in underwriting, dealing in and brokering obligations of the United States, general obligations of states and their political subdivisions, and other obligations that state member banks of the Federal Reserve System may be authorized to underwrite and deal in under 12 U.S.C. 24 and 335, including bankers' acceptances and certificates of deposit, and, as in an incident thereto, employing hedging devices to manage interest rate risk, pursuant to § 225.25(b)(16) of the Board's Regulation Y. Comments on this application must be received no later than May 5, 1986.

Board of Governors of the Federal Reserve System, April 22, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86-9356 Filed 4-25-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Alton Premium Feed Co.; Tylosin; Withdrawal of Approval

Correction

In FR Doc. 86-7359 begining on page 11481 in the issue of Thursday, April 3, 1986, make the following corrections:

1. On page 11481, in the third column, the **EFFECTIVE DATE** should read "April 14, 1986".

2. Under **SUPPLEMENTARY INFORMATION,** in the second paragraph, in the third line, "(21 U.S.C. 360(e))" should read "(21 U.S.C. 360b(e))".

3. In the same paragraph, in the last line, the date should read "April 14, 1986".

BILLING CODE 1505-01-M

Parke-Davis; Chloramphenicol Capsules; Withdrawal of Approval

Correction

In FR Doc. 86-7361 appearing on page 11482 in the issue of Thursday, April 3, 1986, the date "April 11, 1986" should read "April 14, 1986" in the two places it appears.

BILLING CODE 1505-01-M

[Docket No. 86E-0116]

Determination of Regulatory Review Period for Purposes of Patent Extension; Isovue

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Isovue and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims this human drug product.

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

FOR FURTHER INFORMATION CONTACT: Michael W. Cogan, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Isovue, a diagnostic nonionic, radiopaque contrast medium indicated for angiography throughout the cardiovascular system. Following FDA's approval, Bracco Industria Chimica, s.p.a., filed a patent term restoration application with the U.S. Patent and Trademark Office, which then requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated March 24, 1986, FDA advised the Patent Office that the product had undergone a regulatory review period and that Isovue represented the first commercial marketing or use of its active ingredient, iopamidol. Shortly thereafter, the Patent Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Isovue is 2,441 days. Of this time, 1,407 days occurred during the testing phase of the regulatory review period, while 1,034 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* April 28, 1979. FDA has verified that the investigational new drug application became effective on April 28, 1979 (30 days after its receipt by the agency; see 21 CFR 312.1(b)(4)).

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* March 4, 1983. FDA has verified that the new drug application (NDA 18-735) was initially submitted on March 4, 1983.

3. *The date the application was approved:* December 31, 1985. FDA was verified that NDA 18-735 was approved on December 31, 1985.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 2 years of patent extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 27, 1986, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 27, 1986, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 22, 1986.

Allen B. Duncan,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 86–9366 Filed 4–25–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86E–0128]

Determination of Regulatory Review Period for Purposes of Patent Extension; Orudis

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Orudis and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims this human drug product.

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

FOR FURTHER INFORMATION CONTACT: Michael W. Cogan, Office of Health Affairs (HFY–20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98–417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the intitial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B)

FDA recently approved for marketing the human drug product Orudis, a nonsteroidal anti-inflammatory drug. Following FDA's approval, Rhone-Poulenc, S.A., filed a patent term restoration application with the U.S. Patent and Trademark Office, which then requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated March 27, 1986, FDA advised the Patent Office that the product had undergone a regulatory review period and that Orudis represented the first commercial marketing or use of its active ingredient, ketoprofen. Shortly, thereafter, the Patent Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Orudis is 4,925 days. Of this time, 3,529 days occurred during the testing phase of the regulatory review period, while 1,396 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* July 18, 1972. FDA has verified that the investigational new drug application became effective on July 18, 1972 (30 days after its receipt by the agency; see 21 CFR 312.1(b)(4)).

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* March 16, 1982. FDA has verified that the new drug application (NDA 18–754) was initially submitted on March 16, 1982.

3. *The date the application was approved:* January 9, 1986. FDA has verified that NDA 18–754 was approved on January 9, 1986.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 2 years of patent extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 27, 1986, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 27, 1986, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41–42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 23, 1986.

Stuart L. Nightingale,

Associate Commissioner for Health Affairs.

[FR Doc. 86–9367 Filed 4–25–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86E-0097]

Determination of Regulatory Review Period for Purposes of Patent Extension; Temovate

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) has determined the regulatory review period for Temovate and is publishing this notice of that determination as required by law. FDA has made the determination because of the submission of an application to the Commissioner of Patents and Trademarks, Department of Commerce, for the extension of a patent which claims this human drug product.

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

FOR FURTHER INFORMATION CONTACT: Michael W. Cogan, Office of Health Affairs (HFY-20), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-1382.

SUPPLEMENTARY INFORMATION: The Drug Price Competition and Patent Term Restoration Act of 1984 (Pub. L. 98-417) generally provides that a patent may be extended for a period of up to 5 years so long as the patented item (human drug product, medical device, food additive, or color additive) was subject to regulatory review by FDA before the item was marketed. Under that act, a product's regulatory review period forms the basis for determining the amount of extension an applicant may receive.

A regulatory review period consists of two periods of time: a testing phase and an approval phase. For human drug products, the testing phase begins when the exemption to permit the clinical investigations of the drug becomes effective and runs until the approval phase begins. The approval phase starts with the initial submission of an application to market the human drug product and continues until FDA grants permission to market the drug product. Although only a portion of a regulatory review period may count toward the actual amount of extension that the Commissioner of Patents and Trademarks may award (for example, half the testing phase must be subtracted as well as any time that may have occurred before the patent was issued), FDA's determination of the length of a regulatory review period for a human drug product will include all of the testing phase and approval phase as specified in 35 U.S.C. 156(g)(1)(B).

FDA recently approved for marketing the human drug product Temovate, a synthetic corticosteroid for topical dermatological use. Following FDA's approval, Glaxo Operations UK Limited filed a patent term restoration application with the U.S. Patent and Trademark Office, which then requested FDA's assistance in determining the patent's eligibility for patent term restoration. In a letter dated March 24, 1986, FDA advised the Patent Office that the product had undergone a regulatory review period and that Temovate represented the first commercial marketing or use of its active ingredient, clobetasol propionate. Shortly thereafter, the Patent Office requested that FDA determine the product's regulatory review period.

FDA has determined that the applicable regulatory review period for Temovate is 1,368 days. Of this time, 883 days occurred during the testing phase of the regulatory review period, while 485 days occurred during the approval phase. These periods of time were derived from the following dates:

1. *The date an exemption under section 505(i) of the Federal Food, Drug, and Cosmetic Act became effective:* April 1, 1982. FDA has verified that the investigational new drug application became effective on April 1, 1982 (30 days after its receipt by the agency; see 21 CFR 312.1(b)(4)).

2. *The date the application was initially submitted with respect to the human drug product under section 505(b) of the Federal Food, Drug, and Cosmetic Act:* August 30, 1984. FDA has verified that the new drug application (NDA 19-322) was initially submitted on August 30, 1984.

3. *The date the application was approved:* December 27, 1985. FDA has verified that NDA 19-322 was approved on December 27, 1985.

This determination of the regulatory review period establishes the maximum potential length of a patent extension. However, the U.S. Patent and Trademark Office applies several statutory limitations in its calculations of the actual period for patent extension. In its application for patent extension, this applicant seeks 2 years of patent extension.

Anyone with knowledge that any of the dates as published is incorrect may, on or before June 27, 1986, submit to the Dockets Management Branch (address above) written comments and ask for a redetermination. Furthermore, any interested person may petition FDA, on or before October 27, 1986, for a determination regarding whether the applicant for extension acted with due diligence during the regulatory review period. To meet its burden, the petition must contain sufficient facts to merit an FDA investigation. (See H. Rept. 857, Part 1, 98th Cong., 2d Sess., pp. 41-42, 1984.) Petitions should be in the format specified in 21 CFR 10.30.

Comments and petitions should be submitted to the Dockets Management Branch (address above) in three copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. Comments and petitions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

Dated: April 22, 1986.

Allen B. Duncan,

Deputy Associate Commissioner for Health Affairs.

[FR Doc. 86-9368 Filed 4-25-86; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committee; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meeting: The following advisory committee meeting is announced:

Circulatory System Devices Panel

Date, time, and place. May 23, 8:30 a.m., Rms. 703-727A, Hubert H. Humphrey Bldg., 200 Independence Ave. SW., Washington, DC.

Type of meeting and contact person. Open public hearing, 8:30 a.m. to 9:30 a.m.; open committee discussion, 10 a.m. to 2 p.m.; closed committee deliberations, 2 p.m. to 4 p.m.; Keith Lusted, Center for Devices and Radiological Health (HFZ-450), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7594.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of medical devices currently in use and makes recommendations for their regulation.

Agenda—Open public hearing. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the

committee contact person before May 13, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open committee discussion. The committee will discuss a percutaneous transluminal coronary angioplasty guideline, a premarket approval application (PMA) for a pulse generator system, and possibly a PMA for a steroid tip permanent pacing lead.

Closed committee deliberations. The committee may discuss trade secret or confidential commercial information regarding the PMA's listed above. This portion of the meeting will be closed to permit discussion of this information (5 U.S.C. 552b(c)(4)).

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Rm. 4–62, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, betwene 9 a.m. and 4 p.m., Monday through Friday.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94–409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commerical or financial information that is privileged or confidential; information of a personal nature, dislosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other intances not generally relevant to FDA matters.

Examples of portion so FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; a new review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements of a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Publ. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: April 16, 1986.

Frank E. Young,

Commissioner of Food and Drugs.

[FR Doc. 86–9365 Filed 4–25–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket Nos. 84P–0304 and 84P–0305]

Helena Laboratories and Aviv Biomedical, Inc.; Neonatal Total and Unbound Bilirubin Test Systems; Panel Recommendation on Petitions for Reclassification

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice

SUMMARY: The Food and Drug Administration (FDA) is issuing for public comment the recommendation of the Clinical Chemistry and Clinical Toxicology Devices Panel (formerly the Clinical Chemistry Section of the Clinical Chemistry and Hematology Devices Panel) that FDA reclassify the neonatal total and unbound bilirubin test system from class III (premarket approval) into class I (general controls). The Panel made this recommendation after review of reclassification petitions filed by Helena Laboratories (Docket No. 84P–0304) and by Aviv Biomedical, Inc. (Docket No. 84P–0305). FDA is also

issuing for public comment its tentative findings on the recommendation. After reviewing and public comments on the recommendation. After reviewing any public comments on the recomendation and FDA's tentative findings, FDA will approve or deny the reclassification petitions by order in the form of a letter to each petitioner. FDA's decisions on the petitions will be announced in the **Federal Register.**

DATE: Comments by May 28, 1986.

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

FOR FURTHER INFORMATION CONTACT: Kaiser Aziz, Center for Devices and Radiological Health (HFZ–440), Food and Drug Administration, 8757 Georgia Ave., silver Spring, MD 20910, 301–427–7550.

SUPPLEMENTARY INFORMATION:

Introduction

Petition 84P–0304; Helena Laboratories

On December 20, 1982, Helena Laboratories, Beaumont, TX 77704, submitted to FDA under section 513(f)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360c(f)(2)) a reclassification petition for a device the manufacturer called "The Helena Front Face Fluorometer (Bilirubinometer) and Bili-Assay System." The petitioner later submitted supplements to the petition dated August 30, 1983, and October 26, 1983. In its August 30, 1983 supplement, the manufacturer announced that the name of the device had been changed. The new name, which the petitioner intends to include on the device label as well as in all other labeling for the device, is "The Helena Laboratories Automated Bilirubin Binding Analyzer" (referred to in this notice as the "ABBAS Analyzer").

Petition 84P–0305; Aviv Biomedical, Inc.

On September 6, 1983, Aviv Biomedical, Inc., Lakewood, NJ 08701, submitted to FDA under section 513(f)(2) of the act a reclassification petition for a device the manufacturer called "The Aviv Bilirubin Hematofluorometer System (AVIV–BHS)." The petitioner later submitted supplements to the petition dated October 19, 1983, and May 21, 1984. In its May 21, 1984 supplement, the petitioner announced that the name of the device had been changed. The new name, which the petitioner intends to inlcude on the device label as well as in all other labeling for the device, is "Aviv Neonatal Bilirubin Hematofluorometer System" (referred to in this notice as the "AVIV–NBHS").

FDA is considering both petitions for reclassification (Docket Nos. 84P–0304 and 84P–0305) together because each test system utilizes fluorometers of similar design and each device employs hematofluorometry technology to determine parameters of total bilirubin and unbound bilirubin in the blood of neonates. The data obtained by each system are used in the clinical management of neonates with unconjugated hyperbilirubinemia and in the assessment of risk to the neonates of bilirubin-associated brain damage (kernicterus).

Background Information on Evaluating and Managing the Jaundiced Neonate

Bilirubin is a yellow "bile pigment" and a byproduct of red blood cell/hemoglobin metabolism. The two major forms of the byproduct are unconjugated bilirubin and conjugated bilirubin. The unconjugated form, also called indirect bilirubin, is not water soluble. It is converted into the conjugated, water soluble form by the liver. The water soluble bilirubin then passes into the circulation and is excreted by the kidneys.

The liver of neonates does not efficiently convert unconjugated bilirubin to the conjugated, water soluble form during the first 3 to 5 days postpartum. Increased levels of bilirubin in the serum produce yellowing of the skin and cornea, which is referred to as jaundice. In neonates, increased bilirubin levels in the serum can cause the clinical syndrome know as kernicterus (deposition of bile pigments into the brain and spinal cord). Kernicterus, also called bilirubin encephalopathy, can result in irreversible brain damage (Refs. 1a, 1b, 1f, 3h, 3i, and 3k). High serum bilirubin concentrations, however, do not always coincide with the development of kernicterus; for example, low body weight infants sometimes develop kernicterus at low bilirubin levels. For this reason, it is necessary to measure parameters other than serum bilirubin concentrations for assessing the likelihood of kernicterus development.

Bilirubin binds most strongly to the plasma protein albumin, with secondary binding on red cell membranes and other plasma proteins. The albumin binding of bilirubin appears to protect the central nervous system against bilirubin toxicity until the primary binding site has been saturated. It is difficult to determine a "safe" level of serum bilirubin, however, due to the variability in individual tolerances. The measurement of either bound bilirubin in blood or the reserve bilirubin-binding capacity of albumin provide additional indices for assessing the likelihood of kernicterus.

The clinical data obtained to date, and ongoing clinical studies, support the quantitation of the albumin-bound bilirubin and the reserve bilirubin-binding capacity of albumin as diagnostic tools in the assessment of neonate bilirubin levels. Over the past 20 years, many methods have been developed to estimate the reserve binding capacity of newborn sera. These tests range widely in complexity. Most of the methods are limited by one or more factors, including technical difficulty, equipment costs, imprecision, interferences, blood volume requirements, and inaccuracy in the presence of elevated conjugated bilirubin. The recent developments in the technique of "hematofluorometry" afford adequate diagnostic assays suitable for routine use in clinical laboratories (Ref. 1a).

The Statutory Scheme

Classification

Section 513(a) of the act establishes three classes of devices: class I (general controls), class II (performance standards), and class III (premarket approval). Classification of a device is determined by the level of regulatory control needed to provide reasonable assurance of the safety and effectiveness of the device. A class I device is a device for which the "general controls" authorized by or under various sections of the act are sufficient to provide reasonable assurance of the safety and effectiveness of a device. A class II device is a device for which general controls by themselves are insufficient to provide reasonable assurance of the safety and effectiveness of the device, for which there is sufficient information to establish a performance standard to provide such assurance, and for which it is therefore necessary to establish a performance standard to provide reasonable assurance of its safety and effectiveness. A class III device is a device that cannot be classified into class I or class II and that is purported or represented to be for use in supporting or sustaining human life or for a use which is of substantial importance in preventing impairment of human health, or that presents a potential unreasonable risk of illness or injury. Premarket approval obtained in accordance with section 515 of the act is required to provide reasonable

assurance of the safety and effectiveness of a class III device.

Reclassification

The data on which any reclassification is based are required to consist of "valid scientific evidence," as defined in section 513(a)(3) of the act and 21 CFR 860.7 of the regulations. As specified in 21 CFR 860.123(a)(6), the valid scientific evidence of safety and effectiveness contained in a petition for reclassification must demonstrate (1) why the device should not be classified in its present classification and (2) how the proposed classification will provide reasonable assurance of safety and effectiveness of the device. For the purpose of reclassification, the valid scientific evidence upon which the agency relies may not be based on trade secret or confidential commercial information obtained by FDA under various sections of the act (see section 520(c) of the act (21 U.S.C. 360j(c), 21 CFR 860.5(e)) or on the detailed summaries of information respecting the safety and effectiveness of devices for which there are approved premarket approval applications or product development protocols that have been declared completed (see section 520(h)(3) of the act).

The Devices

Bell Laboratories, Murray Hill, NJ 07974, developed an instrument called the Bilirubin Hematofluorometer, which uses the technique of hematofluorometry in the assessment of neonate bilirubin levels. Bell Laboratories currently is neither manufacturing nor selling the instrument, but has made the technology of hematofluorometry available to interested instrument manufacturers.

The technology of hematofluorometry is based on the following chemical principles and instrument design. The assays provided by a hematofluorometer depend on the fluorescent proterties of unconjugated bilirubin. Although bilirubin absorbs blue light regardless of its environment, its subsequent green light emission (fluorescence) is critically dependent upon its molecular surroundings. A hematofluorometer takes advantage of the fact that in blood, essentially only the bilirubin bound to its primary binding site on albumin is fluorescent; bilirubin bound at secondary albumin sites, to other serum proteins, to red cells, and to any unbound bilirubin is essentially not fluorescent.

Thus, the concentration of albumin-bound bilirubin (primary site) is determined directly from the intensity of the green fluorescence of a whole blood specimen. The total albumin binding capacity is measured from the intensity of fluorescence of another aliquot of specimen after it is saturated with bilirubin. The reserve bilirubin-binding capacity of albumin is the difference between these two values. The hematofluorometer saturation index, which is proportional to the unbound bilirubin concentration, is defined as 10 times the ratio of the bound bilirubin to the reserve binding capacity (10 x B/R). This number approximates the value of apparent "unbound" bilirubin concentration (free bilirubin in solution).

A detergent can, within a few minutes, completely extract bilirubin from all binding sites in blood, including the red cells. Bilirubin is fluorescent when incoroporated into the detergent. Consequently, the total blood bilirubin is determined from the fluorescence of a third aliquot of blood promptly after adding a small amount of detergent to it.

The ABBAS Analyzer, described in the Helena Laboratories petition (Docket 84P-0304), is an unmodified version of the prototype instrument developed and evaluated by Bell Laboratories. It is a microprocessor-based, front-face fluorometer, which measures bound bilirubin, total bilirubin, and the reserve bilirubin-binding capacity of albumin in whole blood. It calculates the total minus the bound bilirubin, the ratio of bound bilirubin to reserve bilirubin-binding capacity, and a saturation index.

The ABBAS Analyzer has four sample compartments, which consist of a tray for holding a slide containing the samples for assay. Three samples are put on the slide: heparinizd whole blood plus ABBAS Lysing Reagent, unaltered heparinized whole blood, and heparinized whole blood plus sodium bilirubinate (AABAS Bilirubin Reagent). The fourth sample compartment serves as a blank. The slide is drawn into the instrument for excitation of the samples and fluorescence measurements. The device's microprocessor calculates the bound bilirubin (B), the total bilirubin (T), the total minus bound bilirubin (T-B), the unbound bilirubin (U), and the reserve bilirubin-binding capacity (R) in milligrams per deciliter (mg/dL) of plasma. The microprocessor also calculates the saturation index (SI) in nanomoles per liter, and bound bilirubin/reserve bilirubin-binding capacity as a ratio without units. Requests for data entries, data entries, and results of the assay appear on the display, or printout, or both.

The ABBAS Analyzer uses whole blood specimens, as necessary for the "front-surface" fluorescence mode employed. The device makes use of the bottom surfaces of the blood aliquots by viewing the surface through a glass slide on which the aliquots are placed. The ABBAS Analyzer requires a determination of the patients's hematocrit using a standard microhematocrit method as described in the procedure accompanying the reagents.

The AVIV-NBHS described in the Aviv Biomedical, Inc., petition (Docket 84P-0305), is a modified version of the prototype instrument developed and evaluated by Bell Laboratories. A built-in microprocessor controls the instrument functions and performs all data analyses; the system provides in less than 5 minutes an evaluation of a set of four blood bilirubin parameters (total blood bilirubin (T), albumin-bound bilirubin (B), reserve binding capacity (R), and a bilirubin-albumin saturation index (SI)). The AVIV-NBHS utilizes disposable assay kits containing premeasured reagents and ministirring bars. In addition, a uranium-glass "checker-slide" is supplied with each instrument to allow assessment of instrument performance. A reagent that allows preparation of an appropriate test blood speciment is also available for use in quality control of the entire protocol.

The AVIV-NBHS also uses whole blood specimens, as necessary for the "front-surface" fluorescence mode employed. Unlike the ABBAS Analyzer, however, the AVIV-NBHS makes use of the top surfaces of the blood aliquots. Also, the AVIV-NBHS uses a complete prepackaged disposable reagent kit and allows for total automation of the mixings and incubations. The AVIV-NBHS employs an automated hematocrit determination, requiring a fourth blood aliquot (performed as a separate task in the ABBAS Analyzer).

The ABBAS Analyzer and the AVIV-NBHS are automatically classified into class III under section 513(f)(1) of the act because they are not substantially equivalent to any preamendments device (i.e., a device that was in commercial distribution before May 28, 1976, the enactment date of the Medical Device Amendments of 1976 (Pub. L. 94-295)) or to a postamendments device that has been reclassified (i.e., a device that was not in commercial distribution before May 28, 1976, but that has been reclassified into class I or II).

Under section 515(a)(2) of the act (21 U.S.C. 360e(a)(2)), before a class III device may be marketed, it must either be reclassified under section 513(f)(2) of the act or have premarket approval under section 515 of the act. Neither the ABBAS Analyzer nor the AVIV-NBHS has premarket approval.

Panel Review

Section 513(f)(2) of the act requires FDA to refer a reclassification petition to the appropriate FDA advisory commitee and to receive a recommendation on whether to approve or deny the petition. Accordingly, FDA referred the petitions to the Clinical Chemistry and Clinical Toxicology Devices Panel for its consideration and a recommendation on the change in classification requested by the petitioners. As discussed under the section of this notice titled "Introduction," FDA referred both petitions together to the Panel because the ABBAS Analyzer and the AVIV–NBHS utilize fluormeters of similar design and each device employs hematofluorometry technology to determine parameters of total bilirubin and unbound bilirubin in the blood of neonates.

The Panel's Recommendation

During an open public meeting on February 28, 1984, the Panel considered the petitions. To determine the proper classification of the devices, the Panel considered the criteria specified in section 513(a)(1) of the act. The Panel recommended that FDA reclassify the generic type of device from class III into class I. (See 21 CFR 860.3(i) for a definition of the term "generic type of device.") The Panel also recommended that FDA assign to this generic type of device the name "total and unbound bilirubin in the neonate test system" and identify it as a device intended to measure the concentration of total and unbound bilirubin in the blood (serum) of newborn infants to aid in indicating the risk of bilirubin encephalopathy (kernicterus).

Summary of the Reasons for the Recommendation

The Panel gave the following reasons in support of its recommendation on reclassification:

1. The device is not an implant, is neither life-supporting nor life-sustaining, and does not present a potential unreasonable risk of illness or injury.

2. General controls are sufficient to provide reasonable assurance of the safety and effectiveness of the device.

Summary of the Data Upon Which the Recommendation Is Based

The Panel based its recommendation that the ABBAS Analyzer and the AVIV-NBHS be reclassified from class III into Class I on data in petitions (Refs. 1 and 3) and on the published reports whose reprints are included in the petitions (Refs. 1a through 1g for 84P–0305 and Refs. 3a through 3k for 84P–0304). The studies discussed below in this notice showed the accuracy, precision (reproductibility), specificity, sensitivity, and clinical utility of the two devices.

Accuracy

ABBAS Analyzer

Cashore et al. (Ref. 3a), using the Bell Laboratories' Bilirubin Hematofluorometer prototype system, conducted a clinical study to compare the agreement among the fluorometric results with the device and those obtained by other analytical methodologies. In that study, values for total bilirubin (T) and total minus bound bilirubin (T–B) were determined fluorometrically on 35 blood samples collected from 28 jaundiced neonates. The infants in the study included jaundiced neonates without complications and jaundiced neonates with complications.

The following summary of the average values illustrates that measurement of either bound bilirubin or the reserve bilirubin-binding capacity of albumin provides indices for assessing the likelihood of various complications, including development of kernicterus. A comparison of "complications" with "no complications" neonates demonstrates that the measured fraction of bilirubin not bound to albumin (T–B) was significantly larger in "sick" infants.

SUMMARY OF AVERAGE VALUES IN JAUNDICED NEONATES

[Average ± Standard Deviation]

Bilirubin measurement	No complications	Complications
Total (T)	14.7±5.3 mg/dL	10.2±3.4 mg/dL
Total-bound (T–B)	1.2±0.4 mg/dL	2.3±0.6 mg/dL
Total-bound/total (T–B)/T	9±5 percent	23±6 percent
Total Binding Capacity (Bound + Reserve)	25.3±5.1 mg/dL	16.4±2.7 mg/dL

Cashore et al. compared data on the concentrations of total bilirubin, albumin-bound bilirubin, and the reserve and total bilirubin-binding capacities of the 35 neonatal blood samples, assayed by the Bell Laboratories' Bilirubin Hematofluorometer prototype system, to results of Ehrlices diazo reaction (diazo), gel filtration, and peroxidase-oxidation analytical methods. The accuracy of conventional diazo and peroxidase-oxidation methods has been established by studies giving analytical mean recoveries of 97 percent of pure bilirubin added to sera.

Total bilirubin concentrations determined by the hematofluorometer agreed well with the concentrations determined by the diazo assay ($r=0.96$, $s=1.7$ mg/dL). (The correlation coefficient (r), and the standard error (s), of the comparisons are statistical measures of the performance of the assay systems.) Likewise, albumin-bound bilirubin concentrations determined by the hematofluorometer also agreed well with the diazo assay values ($r=0.95$, $s=1.9$ mg/dL). The values for total bilirubin-binding capacity determined by the hematofluorometer agreed well with the results obtained for the same specimens by gel filtration ($r=0.97$, $s=1.8$ mg/dL) and by peroxidase-oxidation ($r=0.77$, $s=1.7$ mg/dL). The lower correlation coefficient for the peroxidase-oxidation method is due to the known lower effective binding of bilirubin in neonatal sera compared to adult sera using the peroxidase-oxidation method.

R. Wells et al. (Ref. 3c) conducted a study on the relationships of bilirubin-binding parameters using the Bell Laboratories' Bilirubin Hematofluorometer prototype system with bilirubin-binding parameters determined by the conventional peroxidase-oxidation method. The apparent unbound bilirubin concentration (U) determined by the peroxidase-oxidation method and the total unconjugated bilirubin in blood (T), albumin-bound bilirubin (B), and reserve bilirubin-binding capacity (R) by the hematofluorometer were measured in 164 clinical specimens from 98 neonates and in a series of "artifactual" specimens which were made by adding bilirubin to the blood of a single adult donor. These authors found linear correlations between U and B/R for both the artifactual specimens ($r=0.99$) and the clinical specimens ($r=0.87$). They observed an excellent linear correlation between U and T–B for the artifactual specimens ($r=0.96$) and found a significant linear correlation between U and T–B for the clinical neonate specimens ($r=0.72$). The correlation was less good for the clinical specimens because variability was introduced by the necessity to collect the data over a period of months and perturbations introduced by phototherapy are expected. A linear correlation between U and T–B supports the hypothesis that both the hematofluorometer and the peroxidase-oxidation methods provide valid measurements of bilirubin-binding status.

The study by R. Wells et al. also suggested that a saturation index (10 X

B/R) of about 10 nanomoles per liter calculated by the Bell Laboratories' Bilirubin Hematofluorometer prototype system corresponds to a risk of bilirubin encephalopathy. A saturation index of about 20 corresponds to a high risk of the disease condition. Saturation indexes of 10 and 20 correspond to 50 and 67 percent saturation, respectively, of the primary albumin-binding sites.

The petitioner also provided unpublished studies conducted by A.A. Faranoff and the petitioner, designed to compare the ABBAS Analyzer with the Bell Laboratories' Bilirubin Hematofluorometer prototype system, using 39 patients' blood samples in a pediatric clinical laboratory setting. Also, 11 artificially elevated bilirubin whole blood specimens were analyzed on the ABBAS Analyzer and on the Bell Laboratories' Bilirubin Hematofluorometer prototype system. The petitioner submitted graphs and statistical summaries providing correlation coefficients of the combined clinical and analytical data obtained with both device systems. The correlation coefficients for reserve-binding capacity, albumin-bound bilirubin, and saturation index were 0.98, 0.94, and 0.96, respectively.

In other unpublished studies submitted with the petition, A.A. Faranoff assessed the accuracy of the ABBAS Analyzer using five artificially elevated whole blood bilirubin standards with constant bilirubin concentration (10 g/dL) and varied hematocrits (30, 40, 50, 60, 70 percent). The samples were assayed simultaneously on the ABBAS Analyzer and the Bell Laboratories' Bilirubin Hematofluorometer prototype system for total bilirubin, reserve bilirubin-binding capacity, and albumin-bound bilirubin. All three measures showed excellent linearity and a correlation coefficient of 0.99.

In summary, the results from the studies by Cashore et al., Wells et al, Faranoff, and the petitioner show that the ABBAS Analyzer and the Bell Laboratories' Bilirubin Hematofluorometer prototype system are statistically indistinguishable. Therefore, it can be concluded that the two fluorometric device systems are operationally equivalent. Further, the accuracies of assays by hematofluorometry with both instrument systems are comparable to those of established chemical determinations of total bilirubin and bilirubin-binding parameters.

AVIV–NBHS

R. Wells et al. (Ref. 1f) in a 5-month study using patients' blood samples in a pediatric clinical laboratory setting compared the accuracy of the AVIV–NBHS with that of the Bell Laboratories' Bilirubin Hematofluorometer prototype system. The specimen distribution covered a large clinical range of total blood bilirubin, albumin-bound bilirubin, reserve-binding capacity, and bilirubin-albumin saturation index values. The neonate population of 98 infants from which 164 specimens were obtained also covered a large range of clinical situations. The neonates included jaundiced but otherwise healthy full-term infants, low birth-weight premature infants who required exchange transfusion, and infants who received phototherapy. The petitioner supplied graphs of the data and a statistical summary of the data of the four hematofluorometer parameters (T, B, R, SI) obtained with the AVIV–NBHS compared with data obtained with the Bell Laboratories' Bilirubin Hematofluorometer prototype system.

The analytical results obtained with the two fluorometric device systems were statistically indistinguishable ($r=0.90$, $s=1.83$ mg/dL). Therefore, it can be concluded that the two systems are operationally equivalent.

R. Wells et al. also compared plasma total bilirubin values on 98 samples analyzed by the conventional diazo assay with corresponding T values obtained on the AVIV–NBHS. The results from the two methods for quantitating total bilirubin were entirely comparable ($r=0.89$). These authors also performed recovery studies in which they added increasing amounts of pure bilirubin to blood containing very low concentrations of bilirubin. They then determined T on 16 treated samples with the AVIV–NBHS and assayed the samples chemically for total bilirubin using the diazo assay. The results from the two methods for quantitating the added bilirubin compared very closely ($r=0.99$).

The petitioner also supplied graphs and a statistical summary comparing the data for B, R, and SI, on 98 neonatal blood samples obtained by R. Wells et al. with the AVIV–NBHS and with the Bell Laboratories' Bilirubin Hematofluorometer prototype system. The results for B from the two systems were statistically indistinguishable ($r=0.93$, $s=1.32$ mg/dL), demonstrating that the systems are operationally equivalent for assaying B. Likewise, for R, r was 0.91, s was 1.62 mg/dL; for SI, r was 0.96, s was 1.10 mg/dL. (In the AVIV–NBHS, SI is displayed rounded off to the nearest whole number. In the study, comparison whole number SI values were calculated in the same way from the B and R values obtained with the Bell Laboratories' Bilirubin Hematofluorometer prototype system.)

Cashore et al. (Ref. 1b) conducted comparative studies on 24 blood samples taken from low birth-weight premature infants with relatively severe hyperbilirubinemia. Although this study was directed primarily at testing the relationship between the values of SI obtained with the AVIV–NBHS and those of the unbound bilirubin as obtained by the conventional peroxidase-oxidation method, Cashore et al. also assayed the plasma total bilirubin in each of the samples by the conventional diazo assay. These authors concluded that the two methods for quantitating total bilirubin compared very well ($r=0.94$).

The petitioner provided an unpublished study by Ahlfors which compared the saturation index determined by the AVIV–NBHS on 27 neonatal blood samples with the unbound bilirubin levels in plasma determined by the peroxidase-oxidation method on the same samples. It is convenient to combine the statistical summary of the values of SI obtained with the AVIV–NBHS by Cashore et al. on 24 blood samples with the summary of the similar unpublished study conducted by Ahlfors at a different medical center. The results of the 2 studies were quite satisfactory for the 51 samples (combined $r=0.91$, $s=2.1$ millimoles bilirubin). The results are particularly useful because these data compare the performance of the AVIV–NBHS in determining saturation index with the conventional peroxidase-oxidation method of determining unbound bilirubin levels at two different medical centers.

In summary, the data from R. Wells et al., Cashore et al., and Ahlfors show that, in comparing the total blood bilirubin assay of the AVIV–NBHS to the conventional diazo assay for plasma total bilirubin, the AVIV–NBHS is operationally comparable to the Bell Laboratories' Bilirubin Hematofluorometer prototype system. Further, the accuracies of assays by hematofluorometry with both instrument systems are comparable to those of other established chemical determinations of total bilirubin.

Precision

The petitioners demonstrated the precision (reproducibility) of the devices as an integral part of the various studies discussed under "Accuracy." Information on precision was provided in the form of the conventional statistical term "coefficient of variation (C.V.)," expressed as a percentage. (The

coefficient of variation (C.V.)," expressed as a percentage. (The coefficient of variation is a measure of the dispersion of a group of values around an average; the smaller the coefficient of variation, the more precise is the analytical system.)

ABBAS Analyzer

Cashore et al. (Ref. 3a) assessed the precision of the Bell Laboratories' Bilirubin Hematofluorometer prototype system by calculating the coefficients of variation for three to seven repeated determinations on each of 35 blood samples assayed by the device. These authors reported the C.V.'s for determination of total bilirubin, bound bilirubin, reserve bilirubin-binding capacity, and total binding capacity (taken as the sum of the readouts for bound bilirubin and reserve bilirubin-binding capacity to be 8.4, 9.4, 12.6, and 6.5 percent respectively.

The apparent large C.V. for reserve bilirubin-binding capacity is attributable mainly to the fact that the Bell Laboratories Bilirubin Hematofluorometer prototype system displays reserve bilirubin-binding capacity to the nearest 1 mg/dL with 1 mg/dL digital precision. In addition, the value for reserve bilirubin-binding capacity is derived from measurements on two drops of blood and includes the variations in both drops. The observed 12.6 percent C.V. corresponds to a 1 mg/dL precision in the reserve bilirubin-binding capacity when the value is 8 mg/dL. Cashore et al. reported that the instrumental variations alone are smaller than the C.V.'s determined in their clinical setting—slightly less than 1 percent based on repeated measurements of a stable fluorescent standard.

R. Wells et al. (Ref. 3c) using the Bell Laboratories' Bilirubin Hematofluorometer prototype system determined the C.V. values for a series of 32 blood samples with albumin concentrations which ranged from 16 to 40 g/L, unconjugated bilirubin concentrations from 7 to 360 mg/L, and hematocrit concentrations from 39 to 44 percent. The samples were assayed for total bilirubin, bound bilirubin, and reserve bilirubin-binding capacity. The assays were run in duplicate and were averaged. These authors reported the C.V.'s for each of the parameters to be 5.4 percent, 4.2 percent, and 8.4 percent, respectively. The instrument variation was 0.8 percent, which indicated a very stable instrument.

In unpublished studies submitted with the petition, Faranoff and the petitioner compared the precision of the ABBAS Analyzer and the Bell Laboratories' Bilirubin Hematofluorometer prototype system using five artificially elevated whole blood bilirubin standards with constant bilirubin concentration (10 mg/dL) and varied hematocrits (30, 40, 50, 60, 70 percent). The following values were obtained:

	ABBAS analyzer (Percent)	Bell system (Percent)
Total blood bilirubin	10 C.V.	15 C.V.
Reserve binding capacity	15 C.V.	14 C.V.
Albumin-bound bilirubin	11 C.V.	10 C.V.

The petitioner also assessed the precision of the ABBAS Analyzer using either artificially elevated bilirubin whole blood or the ABBAS Bilirubin Reagent to evaluate the performance characteristics of the system. With-in run C.V.'s were less than 3 percent for total bilirubin and for bound bilirubin, and less than 7 percent for reserve bilirubin-binding capacity. Run-to-run C.V.'s were less than 5 percent for total bilirubin and for bound bilirubin, and less than 13 percent for reserve bilirubin-binding capacity.

In summary, the results of these precision studies show that the ABBAS Analyzer and the Bell Laboratories' Bilirubin Hematofluorometer prototype system are comparably precise (reproducible). Further, the precision results encompass additional data on the accuracy as compared with conventional assay methods. Thus, it is demonstrated that the two hematofluorometer systems are operationally equivalent both in reproducibility and in accuracy.

AVIV–NBHS

The precision of the Bell Laboratories' Bilirubin Hematofluorometer prototype system for quantitating T, B, R, and SI as determined by Wells et al. (Ref. 1f) was quite similar to that of the AVIV–NBHS as determined by Ahlfors in that author's unpublished study submitted with the petition. Therefore, it is convenient to report the statistical summaries of the C.V. values of both studies as follows:

Analytical system	Percent C.V.		
	T	B	R
AVIV–NBHS (Ahlfors data)	3.3	5.7	4.8
Bell prototype (Wells data)	4.2	5.4	8.4

The petitioner submitted additional unpublished precision data on the AVIV–NBHS. In a study involving duplicate determinations on each of 25 samples, Banagale obtained a C.V. of 5.2 percent for reserve binding capacity. This compares favorably with the C.V. of 4.8 percent for reserve binding capacity obtained by Ahlfors (see table above). These precision studies showed that the AVIV–NBHS and the Bell Laboratories' Bilirubin Hematofluorometer prototype system are comparably precise. Further, the precision results encompass additional data on the accuracy as compared with conventional assay methods. Thus, it is demonstrated that the two systems are operationally equivalent both in reproducibility and in accuracy.

The petitioner also reported on two evaluations of the precision of the AVIV–NBHS alone (independent of the disposable reagent components). In the first evaluation, the uranium-glass "checker-slide" supplied with the device showed a C.V. of 0.6 percent, a variation which indicates a very stable instrument. In the second evaluation, instrument C.V. was determined by multiple determinations of the fluorescence intensity associated with a stable solution. Two experiments of 100 runs each yielded C.V.'s of 2.3 percent on each run, an acceptable value.

Specificity

Two circumstances are known to cause erroneous bilirubin measurements by the ABBAS Analyzer and by the AVIV–NBHS.

First, about 10 percent of the circulating bilirubin in infants undergoing phototherapy may be in a chemically altered form that does not fluoresce when bound to albumin. Thus, albumin-bound bilirubin in specimens of blood from infants undergoing phototherapy may be underestimated by as much as 10 percent (Ref. 3j). This underestimate of albumin-bound bilirubin, however, is considered to be clinically insignificant (Ref. 3j). The total blood bilirubin is not affected by phototherapy.

Second, the ABBAS Analyzer and the AVIV–NBHS cannot differentiate between conjugated and unconjugated serum bilirubin. The devices are calibrated for unconjugated bilirubin. The relative fluorescence of conjugated and unconjugated bilirubin is such that the devices will read about 2.5 mg/dL for every 1 mg/dL of directly reacting bilirubin in the blood specimen. Thus, both devices err conservatively in that both give a consistently high reading of bilirubin concentrations. The direct reacting bilirubin levels have to be checked by a conventional assay method if there is any suspicion that conjugated bilirubin might be present in the blood specimen.

The petitioners also addressed the possible effects of drugs and

intravenous nutritional therapy on the specificity of the devices. Helena Laboratories concluded that those drugs that are commonly administered to neonates and that contain a colored substance which may potentially interfere with the results are: ampicillin, gentamicin, phenobarbitol, indomethacin, and riboflavin. Helena Laboratories includes in the labeling for the ABBAS Analyzer cautions that some drugs, e.g., sulfonamides, and some fatty acids, e.g., intralipids, may affect the assay.

AVIV Biomedical, Inc., provided a detailed literature review of the known effects of drugs administered to neonates upon the results of assays performed with the AVIV–NBHS (Ref. 2). AVIV Biomedical, Inc., concluded from its review of the literature that the only substance administered to infants that is known to interfere with hematofluorometer assays for bilirubin is riboflavin and the interference observed is clinically insignificant. Drugs or metabolites that are not colored are not expected to cause interference. The most common drugs given to infants have been tested for interference with hematofluorometer assays and found not to interfere. Only extremely rare disease states give rise to fluorescent substances in blood other than bilirubin. AVIV Biomedical, Inc., includes in the labeling of the AVIV–NBHS pertinent portions of this literature review.

The specificity of the ABBAS Analyzer and the AVIV–NBHS measurements is shown to be adequate for their assays for unconjugated bilirubin and the status of the binding of bilirubin to plasma albumin in specimens of whole blood of neonates. The circumstances known to cause errors in hematofluorometry readings can be described and discussed in the device products' labeling.

Sensitivity

As discussed under the section of this notice titled "Introduction," accurate measurement of elevated levels of albumin-bound bilirubin and of the reserve binding capacity of albumin is necessary for the information to be useful in the clinical management of the jaundiced neonate. Thus, in evaluating the sensitivity of the ABBAS Analyzer and the AVIV–NBHS, it is more important that the devices measure elevated rather than low values of T, B, R, and SI. Accordingly, the petitioners designed and evaluated the devices based on the use of the devices in the management of neonates with hyperbilirubinemia, with the most stringent performance specifications centering on pathologic (high) values, rather than normal (low) values. The devices are adequately sensitive for the patients for whom they are intended.

Clinical Utility

In addition to other data and information, the petitioners provided a recent report by Lamola and Faranoff entitled, "Bilirubin Fluorescence and Prevention of Kernicterus" (Ref. 1g and 3k). Lamola and Faranoff present a useful summary of the clinical utility of the hematofluorometer saturation index as an indicator of the risk of kernicterus. Lamola and Faranoff conclude that if a hematofluorometer saturation index of 7.25 is taken as an "action threshold" for exchange transfusion, there is excellent clinical "specificity" as well as clinical "sensitivity," when hematofluorometry is compared against the treatment categories devised by Maisels for the clinical management of jaundiced neonates. Maisels' clinical scheme takes into consideration all accepted risk-modifying factors for kernicterus.

For the purpose of their study, Lamola and Faranoff defined specificity as the number of patients who do not require therapy based on the SI values for those patients as provided by a hematofluorometer, divided by the number of patients who do not require therapy when assessed by Maisels' protocol. These authors defined sensitivity as the number of patients who require therapy based on the SI value, divided by the number of patients who require therapy when assessed by Maisels' protocol. In the patients reported by Lamola and Faranoff, the clinical specificity of the technique of hemafluorometry was 0.95 (113/119); clinical sensitivity was 0.93 (13/14).

The paper emphasizes that both Maisels' protocol and the hematofluorometer saturation index must be used to contribute information to the clinician's decision process for the clinical management of jaundiced neonates.

Risks To Health

The Panel noted that failure of the device to perform its intended use may contribute to the risk of improper diagnosis of neonatal jaundice or improper treatmemt of newborn infants with unconjugated hyperbilirubinemia. The Panel noted further that if untreated, unconjugated hyperbilirubinemia may lead to neurologic damage in the infant due to kernicterus (bilirubin encephalopathy).

Additional Findings

The Panel recommended that for the ABBAS Analyzer or the AVIV–NBHS to be reclassified from class III into class I, the disposable assay reagents should be augmented to include with each device a blood-based quality control product for convenience in quality control of the entire protocol.

The Panel recommended further that each device's labeling should be revised and supplemented as follows:

(1) The labeling should include a clear statement concerning the difference in interpretation that is to be given to the instrument values for "bound bilirubin" and for "total minus bound bilirubin" for blood specimens obtained from newborn infants undergoing phototherapy for hyperbilirubinemia.

(2) The labeling should note the need for a separate determination of conjugated bilirubin by conventional assay methods.

(3) The labeling should include a discussion of the possible effects of drugs administered to neonates upon the accuracy of the results of assays performed with the device.

(4) The labeling should note that the hematofluorometry technique as employed by the device is restricted to neonatal blood samples.

(5) The labeling should include an adequate trouble-shooting protocol.

(6) The labeling should include typical precision data for each parameter measured by the device.

(7) The labeling should state that the analytical values obtained with the device are not to be considered necessarily interchangeable with values obtained by any other hematofluorometer device.

(8) The labeling should state that duplicate blood assays are recommended, when possible.

(9) The labeling should state that the results obtained with the device are not to be the sole factor in the clinician's decisions regarding diagnosis and treatment of neonatal jaundice.

(10) The labeling should instruct the operator to use a "check slide" or similar device to ensure that the system is functioning at a constant light intensity each time the unit is turned on. The labeling should also state that failure to perform such a check could lead to serious errors in the estimation of bilirubin concentration and/or binding capacity.

In accordance with 21 CFR 860.95, the Panel also recommended that the devices should not be exempted from the provisions of section 510 (registration, product listing, and premarket notification), 519 (records and reports on devices), or 520(f) (good manufacturing practice requirements) of the act (21 U.S.C. 360, 360i, 360j(f)).

FDA's Tenative Findings

FDA believes that the data provided by the petitioners are valid scientific evidence and show that class I (general controls is sufficient to provide reasonable assurance of the safety and effectiveness of the devices. Accordingly, FDA tentatively agrees with the recommendation of the Panel that the generic type of device "total and unbound bilirubin in the neonate test system" be reclassified from class III into class I. Further, FDA tentatively agrees that the device should be identified as a test system for the quantitation of total and unbound bilirubin in the blood (serum) of newborn infants to aid in indicating the risk of bilirubin encephalopathy (kernicterus).

References

The transcript of the Panel meeting and the following material are on public file in the Dockets Management Branch (address above) where they may be seen by interested persons between 9 a.m. and 4 p.m., Monday through Friday.

1. Aviv Biomedical, Inc., petition and supplements to the petition.

a. Brown, A.K., et al., "A Rapid Fluorometric Method for Determining Bilirubin Levels and Binding in the Blood of Neonates: Comparisons with a Diazo Method and with 2-(4'-Hydroxybenzene)azobenzoic Acid Dye Binding, " *Pediatrics*, 65:767–776, 1980.

b. Cashore, W.J., et al., "Rapid Fluorometric Assay of Bilirubin and Bilirubin Binding Capacity in Blood of Jaundiced Neonates: Comparisons with Other Methods," *Pediatrics*, 66:411–416, 1980.

c. Hammond, K.B., and R. Wells, "Current Approaches to Evaluating the Jaundiced Neonate: A New Look at Bilirubin Assays," *Laboratory Medicine*, 14:239–245, 1983.

d. Lamola, A.A., et al., "Photoisomerized Bilirubin in Blood from Infants Receiving Phototherapy," *"Proceedings of the National Academy of Science, USA*, 78:1882–1886, 1981.

e. Lamola, A.A., et al., "Fluorometric Study of the Partition of Bilirubin Among Blood Components: Basis for Rapid Microassays of Bilirubin and Bilirubin Binding Capacity in Whole Blood," *Analytical Biochemistry*, 100:25–42, 1970.

f. Wells, R., et al., "Relationship of Bilirubin Binding Parameters," "*Clinical Chemistry*, 28:432–439, 1982.

g. Lamola, A.A., and A.A. Faranoff, "Bilirubin Fluorescence and Prevention of Kernicterus," *Diagnostic Medicine*, 7:9–12, 1984.

2. Letter of March 6, 1984, from A.A. Lamola, Bell Laboratories, to J. Luchins, Aviv Biomedical, Inc.

3. Helena Laboratories petition and supplements to the petition.

a. Cashore, W.J., et al., "Rapid Fluorometric Assay of Bilirubin and Bilirubin Binding Capacity in Blood of Jaundiced Neonates: Comparison with Other Methods," *Pediatrics*, 66:411–416, 1980.

b. Brown, A.K., et al., "A Rapid Fluorometric Method for Determining Bilirubin Levels and Binding in the Blood of Neonates: Comparisons with Diazo Method and with 2-(4'-Hydroxybenzene)azobenzoic Acid Dye Binding," *Pediatrics*, 65:767–776, 1980.

c. Wells, R., et al., "Relationship of Bilirubin Binding Parameters," *Clinical Chemistry*, 28:432–439, 1982.

d. Eisinger, J., and J. Flores, "Front-Face Fluorometer of Liquid Sample," *Analytical Biochemistry*, 94:15–21, 1979.

e. Lamola, A.A., et al., "Fluorometric Study of the Partition of Bilirubin Among Blood Components: Basis for Rapid Microassays of Bilirubin and Bilirubin Binding Capacity in Whole Blood," *Analytical Biochemistry*, 100:25–42, 1979.

f. Blumberg, W.E., et al., "The Hematofluorometer," *Clinical Chemistry*, 23:270–274, 1977.

g. Lee, K.S., and L.M. Gartner, "Bilirubin Binding by Plasma Proteins: A Critical Evaluation of Methods and Clinical Implications," *Reviews in Perinatal Medicine*, Raven Press, Vol. 2, New York, pp. 319–343, 1978.

h. Wennberg, R.P., C.E. Ahlfors, and L.F. Rasmussen, "The Pathochemistry of Kernicterus," *Early Human Development*, Elsevier/North Holland Biomedical Press, Holland, pp. 353–372, 1979.

i. Sherwood, L.M., and E.E. Parris, "Inheritable and Congenital Hyperbilirubinemia," *The New England Journal of Medicine*, 285:1416–1421, 1971.

j. Lamola, A.A., et al., "Photoisomerized Bilirubin in Blood From Infants Receiving Phototherapy," *Proceedings of the National Academy of Science, USA*, 78:1882–1886, 1981.

k. Lamola, A.A., and A.A. Faranoff, "Bilirubin Fluorescence and Prevention of Kernicterus," *Diagnostic Medicine*, 7:9–12, 1984.

After considering the economic consequences of approving this reclassification, FDA certifies that this notice requires neither a regulatory impact analysis, as specified in Executive Order 12291, nor a regulatory flexibility analysis, as defined in the Regulatory Flexibility Act (Pub. L. 96–354). Approval of these petitions would not have significant economic impact on a substantial number of small entities. The petitioners, and all future manufacturers of the device, "total and unbound bilirubin in neonate test system," would be relieved of the costs of complying with the premarket approval requirements in section 515 of the act (21 U.S.C. 360e). There are no offsetting costs that the petitioner would incur from reclassification into class I.

The magnitude of the economic savings from approval of these petitions depends on the extent of premarket approval studies the petitioners would have conducted and the number of future competitors satisfying the same requirements. Neither of these parameters can be reliably calculated to permit quantification of the economic savings. Because of statutory deadlines (section 513(f)(2) of the act) and requirements in the regulations (21 CFR 860.134(b)(5)), FDA is required to publish this notice in the **Federal Register** as soon as practicable. As authorized by section 8(a)(2) of Executive Order 12291, FDA is publishing in the **Federal Register** this notice without clearance of the Director, Office of Management and Budget. As soon as practicable, FDA will notify that office of the publication of this notice.

Interested persons may, on or before May 28, 1986, submit to the Dockets Management Branch (address above) written comments on the Panel's recommendation or FDA's tentative findings. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the name of the device and the docket numbers found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

Dated: March 28, 1986.

M.D. Kinslow,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–9364 Filed 4–25–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86M–0132]

University Optical Products, Co.; Premarket Approval of the ALGES™ (Hefilcon A) Bifocal Contact Lens

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the supplemental application by University Optical Products Co., Largo, FL, for premarket approval, under the Medical Device Amendments of 1976, of the spherical ALGES™ (hefilcon A) Bifocal Contact Lens. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant of the approval of the application.

DATE: Petitions for administrative review by May 28, 1986.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative

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

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7940.

SUPPLEMENTARY INFORMATION: On August 13, 1985, University Optical Products Co., Largo, FL 33543, submitted to CDRH a supplemetal application for premarket approval of the ALGES™ (hefilcon A) Bifocal Contact Lens. The ALGES™ (hefilcon A) Bifocal Contact Lens is intended for daily wear for the correction of visual acuity in not-aphakic persons with nondiseased eyes that are myopic presbyopic or hyperopic presbyopic. The lens may be worn by persons who exhibit corneal astigmatism of 2.00 diopters (D) or less that does not interfere with visual aucity. The lens ranges in powers from −10.00 D to +10.00 D with add powers ranging from 1.00 D to 5.00 D. The lens is to be disinfected using either a heat or chemical lens care system.

On January 24, 1986, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On February 28, 1986, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ-460), address above.

The labeling of the approved ALGES ™ (hefilcon A) Bifocal Contact Lens states that the lens is to be used only with certain solutions for disinfection and others purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only. The restrictive labeling needs to be updated periodically, however, to refer to new lens solutions that CDRH approves for use with approved contact lenses made of polymers other than polymethylmethacrylate, to comply with the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 301 et seq.), and regulations thereunder, and with the Federal Trade Commission Act (15 U.S.C. 41-58), as amended. Accordingly, whenever CDRH publishes a notice in the **Federal Register** of approval of a new solution for use with an approved lens, the contact lens manufacturer of PMA holder shall correct its labeling to refer to the new solution at the next printing or at any other time CDRH prescribes by letter to the applicant.

Opportunity for Administrative Review

Section 515(d)(3) of the act (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under Part 12 (21 CFR Part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before May 28, 1986, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h), 90 Stat. 554-555, 571 (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: April 20, 1986.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 86-9362 Filed 4-25-86; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Medicaid Program; Hearing: Reconsideration of Disapproval of an Alaska State Plan Amendment

AGENCY: Health Care Financing Administration (HCFA), HHS.

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing on May 27, 1986 in Seattle, Washington to reconsider our decision to disapprove Alaska State Plan Amendment 84-6.

Closing Date: Requests to participate in the hearing as a party must be received by the Docket Clerk May 13, 1986.

FOR FURTHER INFORMATION CONTACT: Docket Clerk, Hearing Staff, Bureau of Eligibility, Reimbursement and Coverage, 365 East High Rise, 6325 Security Boulevard, Baltimore, Maryland 21207, Telephone: (301) 594-8261.

SUPPLEMENTARY INFORMATION: This notice announces an administrative hearing to reconsider our decision to disapprove an Alaska State Plan Amendment.

Section 1116 of the Social Security Act and 45 CFR Parts 201 and 213 establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. HCFA is required to publish a copy of the notice to a State Medicaid Agency that informs the agency of the time and place of the hearing and the issues to be considered. (If we subsequently notify the agency of additional issues which will be considered at the hearing, we will also publish that notice.)

Any individual or group that wants to participate in the hearing as a party must petition the Hearing Officer within 15 days after publication of this notice, in accordance with the requirements contained in 45 CFR 213.15(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the Hearing Officer before the hearing begins in accordance with the requirements contained in 45 CFR 213.15(c)(1)

If the hearing is later rescheduled, the Hearing Officer will notify all participants.

The issue in this matter is whether Alaska State Plan Amendment 84–6 which provides for disregarding, for purposes of Medicaid eligibility determinations, Alaska Longevity Bonus payments received by applicants and recipients who qualify for these payments on the basis of having less than 25 years continuous residency in the State, violates sections 1902(a)(10)(A)(ii), 1905(j) and 1616(c) of the Social Security Act, Federal regulations at 42 CFR 435.230, 435.231, 435.722 and 20 CFR 416.2025(c) and section 4–30–10B.2.e. of the Medical Assistance Manual.

Section 1902(a)(10)A)(ii) of the Act permits States, at their option, to provide Medicaid to individuals who are receiving State supplementary payments and to institutionalized individuals who are eligible under a special income level. Sections 1905(j) and 1616 of the Act further define State supplementary payments for purposes of title XIX and title XVI. Although the Medicaid statute (section 1905(j)) defines "State supplementary payment" without reference to the issue of disregards, the SSI statute (section 1616(c) provides that—

". . . any State . . . making supplementary payments . . . may disregard *amounts* of earned and unearned income in addition to other amounts which it is required or permitted to disregard under this section in determining such eligibility, and shall include a provision specifying the amount of any such income that will be disregarded." (Emphasis supplied.)

The preamble language to the final rule at 20 CFR 416.2025 (implementing section 1616(c) of the Act) made clear that, *in accordance with the Act,* States may provide for additional amounts of income in determining the amount of the supplementation payable, and not vary the exclusion based on the type (or source) of income.

The Social Security Act only permits the disregards for State supplementary payments to be greater in amount than those of the SSI program but does not permit them to vary by type or source of income. Therefore, HCFA has determined the Alaska State Plan Amendment violates sections 1902(a)(10)(A)(ii), 1905(j), 1616(c) of the Social Security Act and implementing regulations at 42 CFR 435.231, 435.722 and 20 CFR 416.2025(c). In addition, although the SSI regulation applies only to Federally administered State supplementary payments, in the context of the Medicaid program, the financial requirements of the State supplementary payments found in section 1616(c) of the Act also apply for purposes of qualifying for Medicaid. Section 1902(a)(17) of the Act requires that comparable standards be used to determine Medicaid eligibility for all groups of recipients. It would be inconsistent with section 1902(a)(17) to allow States to define income disregards differently based solely on Federal vs. State administration of the supplement programs.

Section 4–30–10B.2.e. of the Medical Assistance Mannual (published on June 29, 1976) provides that any more liberal disregards used in determining eligibility for State supplementary payment recipients must be applied as a set dollar amount or across-the-board percentage to be deducted from income of all persons who apply for the supplement. This instruction goes further to state that more liberal disregards may not be applied only to certain types of income (such as earned income, unearned income, increased income from Social Security, etc.).

For institutionalized individuals eligible under a special income test the SSI deductions or greater deductions may be used to determine eligibility, but any greater deductions are subject to the limitations described above. Therefore, HCFA has determined Alaska State Plan Amendment 84–6 violates section 4–30–10–B.2.e of the Medical Assistance Manual.

The notice to Alaska announcing an administrative hearing to reconsider our disapproval of its State plan amendment reads as follows:

Mr. John R. Pugh, Commissioner, State of Alaska
Department of Health and Rehabilitative Services, Pouch H01, Juneau, Alaska 90811.

Dear Mr. Pugh: This is to advise you that your request for reconsideration of the decision to disapprove Alaska State Plan Amendment 84–6 was received on March 28, 1986. This amendment would provide for disregarding, for purposes of Medicaid eligibility determinations, Alaska Longevity Bonus payments received by applicants and recipients who qualify for these payments on the basis of having less than 25 years continuous residency in the State.

You have requested reconsideration of whether these plan amendments conform to the requirements for approval under title XIX of the Social Security Act. The issue in this matter is whether Alaska's proposed plan violates section 1902(a)(10)(A)(ii), 1905(j), and 1616(c) of the Social Security Act implemented through regulations at 42 CFR 435.230, 435.231, 435.722 and 20 CFR 416.2025(c) and section 4–30–10 B.2.e. of the Medical Assistance Manual.

I am scheduling a hearing on your request to be held on May 27, 1986 at 10 a.m., in the Room 470–472, 2901 Third Avenue, Seattle, Washington. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties.

I am designating Mr. Lawrence Ageloff as the presiding official. If these arrangements present any problems, please contact the Docket Clerk. In order to facilitate any communication that may be necessary between the parties to the hearing, please notify the Docket Clerk of the names of the individuals who will represent the State at the hearing. The Docket Clerk can be reached at (301) 594–8261.

Sincerely yours,

Henry R. Desmarais, M.D.,
Acting Administrator.

(Section 1116 of the Social Security Act (42 U.S.C. 1316))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: April 22, 1986.

Henry R. Desmarais,
Acting Administrator, Health Care Financing Administration.

[FR Doc. 86–9463 Filed 4–25–86; 8:45 am]

BILLING CODE 4120–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Secretary

[Docket No. N–86–1606]

Privacy Act of 1974; Proposed Amendment to a System of Records

AGENCY: Department of Housing and Urban Development.

ACTION: Notification of a proposed amendment to an existing system of records.

SUMMARY: The Department is giving notice that it intends to amend the following Privacy Act system of records: HUD/DEPT–34, Pay and Leave Records of Employees.

EFFECTIVE DATE: This amendment shall become effective without further notice in 30 calendar days (May 28, 1986) unless comments are received on or before that date which would result in a contrary determination.

ADDRESS: Rules Docket Clerk, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, Southwest, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Arthur L. Stokes, Departmental Privacy Act Officer, Telephone (202) 755–6374. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Federal legislation, 42 U.S.C. 654–666, encourages States to insure the reciprocal enforcement of child and spousal support obligations. In

anticipation of an increase in the number of requests for information contained in HUD/DEPT-34, this amendment adds a routine use which would expedite the release of information to Federal, State, and local Agencies responsible for the enforcement of child and spousal support obligations. The amended portion of the system notice is set forth below. Previously, the system and a prefatory statement containing the general Routine Uses applicable to most of the Department's systems of records were published in the "Federal Register Privacy Act Issuances, 1984 Compilation, Volume II." A report of the Department's intention to amend this system was filed with the Speaker of the House, the President of the Senate, and the Office of Management and Budget on February 25, 1986.

Authority: 5 U.S.C. 552a, 88 Stat. 1986; sec. 7(d) Department of HUD Act (42 U.S.C. 3535(d)).

Issued at Washington, DC, April 10, 1986.

Judith L. Tardy,

Assistant Secretary for Administration.

HUD/DEPT-34

SYSTEM NAME:

Pay and Leave Records of Employees.

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:

See Routine Uses paragraphs in prefatory statement. Other routine uses: Transmittal of data to U.S. Treasury to effect issuance of paychecks to employees and distribution of pay according to employee directions for savings bonds, allotments, financial institutions, and other authorized purposes. Annual reporting of W-2 statements to Internal Revenue Service, Social Security Administration, the individual, and taxing authorities of States, the District of Columbia, territories, possessions, and local governments, except social security numbers will be reported only to such authorities that have satisfied the requirements set forth in section 7(a)(2)(B) of the Privacy Act of 1974. To the Office of Personnel Management for matters concerned with pay, benefits, retirement deductions, and other information necessary for the Office to carry on its Government-wide personnel functions; to GAO—for audit and to resolve employee appeals on pay/leave decisions; to other Federal government agencies—to facilitate employee transfers; to State agencies—to verify workmen's compensation injury claims; time and attendance data to contractor for scanning, keying, producing error lists, and producing input media; to other Federal agencies for the purpose of collection debts owed to the Federal Government by administrator or salary offset; to Federal, State, and local agencies to assist in the enforcement of child and spousal support obligations.

* * * * *

[FR Doc. 86-9431 Filed 4-25-86; 8:45 am]

BILLING CODE 4210-32-M

[Docket No. N-86-1605]

Submission of Proposed Information Collections 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, 481 7th Street SW., Washington, DC 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 proposals 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: Title I Financial Statement

Office: Housing
Form Number: HUD-56142
Frequency of Submission: On occasion
Affected Public: Individuals or Households
Estimated burden hours: 575
Status: Extension
Contact: Patricia D. Schader, HUD, (202) 755-6857, Robert Fishman, OMB, (202) 395-6880

Dated: April 17, 1986.

Proposal: General Conditions

Office: Public and Indian Housing
Form number: HUD-5370
Frequency of Submission: On Occasion
Affected Public: State or Local Governments and Non-Profit Institutions
Estimated Burden Hours: 619
Status: New
Contat: Raymond W. Hamilton, HUD, (202) 426-0938, Robert Fishman, OMB, (202) 395-6880

Dated: April 17, 1986.

Proposal: Request for Refund of One Time Mortgage Insurance Premium (OTMIP)

Office: Administration
Form Number: HUD-27034
Frequency of Submission: On Occasion
Affected Public: Individuals or Households and Small Businesses or Organization
Estimated Burden Hours: 12,000
Status: New
Contact: Robert Wiggins, HUD, (202) 426-8980, Robert Fishman, OMB, (202) 395-6880

Dated: April 17, 1986.

Proposal: Housing Development Grant Application

Office: Housing
Form Number: HUD-90031
Frequency of Submission: On Occasion
Affected Public: State or Local Governments
Estimated Burden Hours: 16,400
Status: Reinstatement
Contact: Jessica Franklin, HUD (202) 755-6142, Robert Fishman, OMB, (202) 395-6880

Dated: April 17, 1986.

Proposal: Rental Rehabilitation Program Evaluation

Office: Policy Development and Research
Form Number: None
Frequency of Submission: Single-time
Affected Public: State or Local Governments and Small Businesses or Organizations
Estimated Burden Hours: 312
Status: New
Contact: Judson L. James, HUD, (202) 755–4370, Robert Fishman, OMB, (202) 395–6880

Dated: April 17, 1986.

Proposal: Restriction on Use of Assisted Housing

Office: Public and Indian Housing
Form Number: None
Frequency of Submission: On Occasion
Affected Public: State or Local Governments
Estimated Burden Hours: 37,863
Status: New
Contact: Joyce Ann Bassett, HUD (202) 426–0744, Robert Fishman, OMB, (202) 395–6880

Dated: April 10, 1986.

Proposal: Community Development Block Grants: State's Program

Office: Community Planning and Development
Form Number: None
Frequency of Submission: Annually
Affected Public: State or Local Governments
Estimated Burden Hours: 25,440
Status: New
Contact: Marie B. Ratcliff, HUD, (202) 755–6322, Robert Fishman, OMB, (202) 395–6880
Dated: April 10, 1986.

Proposal: Section 312, Rehabilitation Loan Program

Office: Community Planning and Development
Form Number: HUD–6230, 6230C, 6236, 6239, 6240, and 6243
Frequency of Submission: On Occasion
Affected Public: Individuals or Households, State or Local Governments, Federal Agencies or Employees, and Non-Profit Institutions
Estimated Burden Hours: 7,478
Status: Revision
Contact: Richard R. Burk, HUD, (202) 755–5685, Robert Fishman, OMB, (202) 395–6880
Dated: March 26, 1986.

Proposal: Development Program of Indian Housing Authority and Indian Low Income Housing Program Development Cost Budget

Office: Public and Indian Housing
Form Number: HUD–53045 and 53045A
Frequency of Submission: On Occasion
Affected Public: State or Local Governments
Estimated Burden Hours: 1,620
Status: Extension
Contact: John V. Meyers, HUD, (202) 755–1015, Robert Fishman, OMB, (202) 395–6880

Dated: March 26, 1986.
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).

Dennis F. Geer,
Director, Office of Information Policies and Systems.

[FR Doc. 86–9430 Filed 4–25–86; 8:45 am]
BILLING CODE 4210–01–M

[Docket No. D–86–817; FR–2233]

Amendment of Delegation of Procurement Authority to the Field

AGENCY: Office of the Assistant Secretary for Administration, HUD.
ACTION: Amendment of delegation of procurement authority to the Field.

SUMMARY: The Designations and Redelegations of Authority published in the **Federal Register** on January 19, 1976 (41 FR 2666), and amended on October 28, 1976 (41 FR 47279); October 16, 1979 (44 FR 59671); November 4, 1980 (45 FR 73141); and May 16, 1984 (49 Fr 20760); are further amended by revising the delegation of procurement authority to the Field to impose restrictions on the purchase of certain equipment and related software, unless prior approval has been received from the Office of Information Policies and Systems. The restrictions are required to standardize such equipment and software throughout the Department.

EFFECTIVE DATE: April 18, 1986.
FOR FURTHER INFORMATION CONTACT: Roosevelt Jones, Director, Office of Procurement and Contracts, Room 5260, 451 Seventh Street, SW., Washington, DC 20410, (202) 755–5290. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: On May 16, 1984 (49 FR 20760), the Department published in the **Federal Register** a Redelegation of Contracting Authority that amended Sections C and D of the Designations and Redelegations of Authority published January 19, 1976 (41 FR 2666), and amended October 28, 1976 (41 FR 47279); October 16, 1979 (44 FR 59671); and November 4, 1980 (45 FR 73141). The purpose of this delegation is to expand the last paragraph of Section C to reflect restrictions imposed on the Field for the purchases of microcomputer and word processing equipment and related software, unless prior approval has been received from the Office of Information Policies and Systems. The restrictions are required in order to standardize such equipment and software throughout the Department.

Accordingly, the last paragraph of Section C of the Designation and Redelegation of Authority published May 16, 1984 (49 FR 20760), is revised to read as follows:

The Authority in this section C does not apply to purchases and contracts for the Acquire Property Program of the Office of Housing, as defined by HUDAR 2401.601–71, nor does it apply to the acquisition (purchase, lease, or rental) of microcomputer equipment, related software, or wood processing equipment, unless prior approval has been received from the Office of Information Policies and Systems (OIPS). Acquisition (purchase, lease, or rental) of such equipment and software, as part of training or other support provided by a contractor, is also prohibited without the prior approval of OIPS.

Authority: Delegation of Authority to Assistant Secretary for Administration, January 19, 1976 (41 FR 2666).

Dated: April 18, 1986.

Judith L. Tardy,
Assistant Secretary for Administration.

[FR Doc. 86–9429 Filed 4–25–86; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

National Strategic Materials and Minerals Program Advisory Committee; Renewal

Pursuant to Pub. L. 92–463, notice is hereby given of the renewal of the National Strategic Materials and Minerals Program Advisory Committee. Following consultation with the General Services Administration, the Secretary is renewing the Advisory Committee to advise the Secretary of the Interior with respect to his responsibilities for strategic materials and minerals issues.

Further information regarding the National Strategic Materials and Minerals Program Advisory Committee may be obtained from Gully Walter, Executive Director, Room 6650, U.S. Department of the Interior, 18th and C

Streets, NW., Washington, DC 20240; (202) 343–2136.

The certification of renewal is pubished below.

Certification

I hereby certify that the renewal of the National Strategic Materials and Minerals Program Advisory Committee is necessary and in the public interest in connection with performance of duties imposed on the Department of the Interior by those statutory authorities listed in the Federal Land Policy and Management Act, the Mining and Minerals Policy Act of 1970, the National Materials and Minerals Policy Research and Development Act of 1980, the Defense Production Act of 1950, as amended, and the organic legislation of the Department and the several bureaus and agencies thereof.

Donald Paul Hodel,

Secretary of the Interior.

[FR Doc. 86–9453 Filed 4–25–86; 8:45 am]

BILLING CODE 4310–10–M

Bureau of Land Management

Salem District Advisory Council; Meeting

Notice is hereby given in accordance with Section 309 of the Federal Land Policy and Management Act of 1976 that a meeting of the Salem District Advisory Council will be held May 20, 1986, at 1:30 p.m. at the BLM District Office, 1717 Fabry Road SE., Salem, Oregon.

Agenda for the meeting will include:

1–Election of officers.
2–Table Rock Wilderness Management Plan-Information-follow-up.
3–Walker Creek Water Supply Project proposal-Information.
4–Grand Ronde Indian Reservation proposal-Information.
5–Yaquina Head Outstanding Natural Area Management Plan-Information.

The meeting is open to the public. Anyone wishing to make an oral statement must notify the District Manager at the Salem District Office, 1717 Fabry Road SE., Salem, Oregon, 97302, by May 16, 1986. Written comments will also be received for the council's consideration. Summary minutes will be maintained in the District Office and will be available for public inspection and reproduction during regular business hours within 30 days following the meeting.

Dated: April 18, 1986.

Edward S. Lewis III,

District Manager.

[FR Doc. 86–9422 Filed 4–25–86; 8:45 am]

BILLING CODE 4310–33–M

Fish and Wildlife Service

Comprehensive Conservation Plan/ Environmental Statements; Arctic National Wildlife Refuge, AK; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of Intent to Prepare a Comprehensive Conservation Plan/ Environmental Impact Statement, and Wilderness Suitability Assessment for the Arctic National Wildlife Refuge, Alaska, as well as Boundary Descriptions for the Management of the Ivishak, Wind, and Sheenjek Wild and Scenic Rivers; correction.

SUMMARY: This document corrects a notice of intent that appeared on page 5109 in the **Federal Register** of February 11, 1986, (51 FR 5109). This action is necessary to correct the date by which comments to the scoping process should be submitted.

FOR FURTHER INFORMATION CONTACT: Consuelo K. Wassink, Public Involvement Specialist, Refuge Planning, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, Anchorage, Alaska 99503; telephone (907) 786–3496.

Text: The following correction is made in FR Doc. 86–28 appearing on page 5109:

On page 5109, column two, first paragraph, first sentence, **"DATES,"** is corrected to read "Formal, written comments should be received by June 15, 1986."

Dated: April 18, 1986.

Robert D. Jacobsen,

Acting Regional Director.

[FR Doc. 86–9390 Filed 4–25–86; 8:45 am]

BILLING CODE 4310–55–M

Minerals Management Service

Request for Supplemental Information; Navarin Basin; Sale 107 (March 1988)

Purpose of Request

The Navarin Basin Outer Continental Shelf (OCS) Oil and Gas Lease Sale 107 tentatively planned for March 1988 is being reviewed to determine if the current level of industry interest warrants continuing with the presale process. The oil and gas industry is asked to assist in this process by providing up-to-date information on its interests in leasing and exploring within the proposed sale area. The Regional Director, Alaska OCS Region, Minerals Management Service, P.O. Box 101159, Anchorage, Alaska, 99510 (907 261–4010) will receive information on areas of interest by mail, telephone, or informal meeting. As part of this effort, the Regional Director may make direct telephone contact with companies which respond in writing.

Use of Information from Request

Responses will help to determine if and when a draft and final Environmental Impact Statement (EIS) and proposed and final Notices of Sale will be issued or if Sale 107 should be cancelled or deferred for consideration in a future 5-year schedule.

Description of the Area

The Navarin Basin Planning Area extends southwest from the juncture of approximately 63° N latitude at the U.S.-Russia Convention Line along that line to 180° longitude thence south to approximately 58° N latitude thence east to 174° W longitude thence north to approximately 63° N latitude thence west to the point of origin.

Previous Sale Activities

Sale 83 in April 1984 was the first Federal sale in this area. Of 5,036 blocks offered, 186 received bids, and 163 leases were issued with a primary term of 10 years, effective June 1, 1984. An additional 17 leases are being held in abeyance pending resolution of jurisdictional differences over the international boundary between the United States and the Soviet Union. The disputed area is the result of a United States claim of exclusive maritime resource jurisdiction over the area offered while the Soviet Union claims part of the area as well. The claims relate to differing depictions of the maritime boundary line established by the 1867 Convention between the United States and Russia that ceded Alaska to the United States. The United States describes the 1867 Convention Line by areas of great circles while the Soviet Union depicts it with rhumb lines.

Summary of Comments Received From the Call for Information

The Call for Information for Sale 107 was published in the **Federal Register** at 49 FR 17686 on April 24, 1984. The Call included 5,051 blocks (approximately 28.1 million acres) in the Navarin Basin Planning Area. The area lies from about 30 miles offshore of St. Matthew Island to about 280 miles offshore of the Yukon Delta in water depths from 230 feet to 9,200 feet.

Nine companies submitted nominations. One company expressed interest in the entire Call area. Three companies commented on the Call. Each requested a 10-year lease term. One stated preference for a fixed royalty

rate; another recommended a cash bonus of $150 per acre and a 12½ percent royalty. One indicated a preference for the standard 2,304 hectare block. Comments were also received from the State of Alaska, the National Oceanic and Atmospheric Administration (NOAA), the Whale Center of Oakland, California, the U.S. Fish and Wildlife Service, and the National Park Service. The State of Alaska requested that the size of the proposed sale area should be reduced to include only areas of high-to-moderate industry interest. the NOAA expressed concern for the marine mammals around St. Matthew and St. Lawrence Islands, particularly for bowhead whale overwintering areas and summer protection for the right whale.

On July 27, 1984, the Department of the Interior announced that the area to be analyzed in the EIS process included the entire Call area. This area covers approximately 28.1 million acres consisting of 5,051 blocks.

Instructions in Request for Supplemental Information

Information on industry interest may be provided by mail or telephone to the Regional Director at the address and telephone number stated in the first paragraph. Alternatively, companies are invited to meet with the Regional Director or his representative to personally convey specific information. Although individual indications of interest are considered privileged and proprietary information, the names of firms or persons submitting indications of interest will be a matter of public record.

Comments on this matter should be received within 45 days following publication of this request. It will be appreciated if envelopes containing responses to this request are marked "Request for Supplemental Information on Proposed Lease Sale 107."

Dated: April 21, 1986.

Wm. D. Bettenberg,

Director, Minerals Management Service.

[FR Doc. 86-9399 Filed 4-25-86; 8:45 am]

BILLING CODE 4310-MR-M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30813]

Norfolk and Western Railway Company; Trackage Rights; Consolidated Rail Corporation; Exemption

Consolidated Rail Corporation (Conrail) has agreed to grant overhead trackage rights to the Norfolk and Western Railway Company (NW) between NW's connection with Conrail at milepost 5.3, Delray Interlocking, and the west end of Conrail's Detroit River Tunnel Tracks, where they connect with tracks jointly owned by the Canadian National Railway Company and the Canadian Pacific Limited, a distance of 3.26 miles in Detroit, MI. The trackage rights were effective on April 15, 1986.

This notice is filed under 49 CFR 1180.2(d)(7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition to use of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry. Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: April 22, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

James H. Bayne,

Secretary.

[FR Doc. 86-9401 Filed 4-25-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7 notice is hereby given that on April 15, 1986, a proposed consent decree in *United States* v. *Hess Mechanical Corporation and Ring Associates*, Civil Action No. 86-0129, was lodged with the United States District Court for the District of Columbia. The complaint filed by the United States alleged violations of the Clean Air Act and the National Emission Standards for Hazardous Air Pollutants (NESHAP) for asbestos. Specifically, the complaint alleged that the defendants failed to comply with the asbestos NESHAP during the removal of asbestos from a Ring Associates-owned building located at 1200 Eighteenth Street, NW., Washington, DC. The complaint sought injunctive relief to require the defendants to comply with the Clean Air Act and the NESHAP for asbestos and civil penalties for violations. The decree requires defendants to comply with the Clean Air Act and the NESHAP for asbestos in the future and imposes a $10,000 civil penalty for post violations of the Act and regulations.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, DC. 20530, and should refer to *United States* v. *Hess Mechanical Corporation and Ring Associates*, Department of Justice Reference #90-5-2-1-894.

Copies of the proposed consent decree may be examined at the following locations: Office of the United States Attorney, United States Courthouse, 3rd & Constitution Avenue, NW. Washington, DC 20001; the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1535, Ninth Street & Pennsylvania Ave., NW., Washington, DC 20530; and, Region III Office of the United States Environmental Protection Agency, 841 Chestnut Street, Philadelphia, Pa. 19107. 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. When requesting a copy, please refer to *United States* v. *Hess Mechanical Corporation and Ring Associates*, Department of Justice Reference #90-5-2-1-894.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources Division.

[FR.Doc. 86-9355 Filed 4-25-86; 8:45 am]

BILLING CODE 4410-01-M

Antitrust Division

Proposed Termination of Final Judgment; Toyota Motor Sales, U.S.A., Inc.

Notice is hereby given that Toyota Motor Sales, U.S.A., Inc. and its wholly-owned subsidiary, Toyota Motor Distributors, Inc., have filed with the United States District Court for the Northern District of California a motion to terminate the final judgment in *United States* v. *Toyota Motor Sales, U.S.A., Inc.*, Civil No. C-75-0473-SW; and the Department of Justice, in a stipulation also filed with the court, has consented to termination of the judgment, but has reserved the right to withdraw its consent for at least seventy (70) days after the publication of this notice. The complaint in this case (filed on March 12, 1975) alleged that the defendants had conspired to engage in resale price

maintenance, and confine the sale of Toyota products by Toyota dealers to designated market areas. The judgment (entered on July 28, 1975) enjoined the defendants from engaging in resale price maintenance, or restricting the geographical areas in which or the people to whom Toyota dealers may sell or advertise Toyota products.

The Department has filed with the court a memorandum setting forth the reasons why the Department believes that termination of the judgment would serve the public interest. Copies of the complaint and final judgment, defendants' motion papers, the stipulation containing the Government's consent, the Department's memorandum, and all future papers filed with the court in connection with this motion will be available for inspection in the Legal Procedure Unit of the Antitrust Division, Room 7233, Department of Justice, 10th Street and Pennsylvania Avenue, NW., Washington, DC 20530 (telephone 202–633–2418), and at the Office of the Clerk of the United States District Court for the Northern District of California, Federal Building, 450 Golden Gate Avenue, San Francisco, California 94102. Copies of any of these materials may be obtained from the Legal Procedure Unit upon request and payment of the copying fee set by Department of Justice regulations.

Joseph H. Widmar,

Director of Operations, Antitrust Division.

[FR Doc. 86–9417 Filed 4–25–86; 8:45 am]

BILLING CODE 4410–01–M

Immigration and Naturalization Service

Reimbursable Services; Excess Cost of Preclearance Operations

Notice is hereby given that pursuant to Immigration and Naturalization Service Regulations (8 CFR 235.5(c)), the biweekly reimbursable excess costs for each preclearance installation are determined as set forth below and will be effective with the pay period beginning April 27, 1986.

Installation	Biweekly excess cost
Montreal, Canada	$10,358.29
Toronto, Canada	15,245.61
Kindley Field, Bermuda	2,435.38
Freeport, Bahama Islands	9,867.26
Nassau, Bahama Islands	11,126.91
Calgary, Canada	3,992.12
Edmonton, Canada	3,637.13
Vancouver, Canada	8,961.77
Victoria, Canada	1,528.76
Winnipeg, Canada	2,092.64

These amounts will be in effect and billed biweekly until the first full pay period after the next notice of reimbursable biweekly excess costs is published in the **Federal Register.**

Dated: April 22, 1986.

Edwin J. Fost,

Deputy Comptroller.

[FR Doc. 86–9432 Filed 4–25–86; 8:45 am]

BILLING CODE 4410–10–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–133]

Pacific Gas and Electric Co.; Availability of the Draft Environmental Statement for Decommissioning of Humboldt Bay Power Plant Unit No. 3

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a Draft Environmental Statement (DES) (NUREG–1166) has been prepared by the Commission's Office of Nuclear Reactor Regulation related to the proposed decommissioning of the Humboldt Bay Power Plant Unit No. 3 in Humboldt County, California. The DES addresses the acquatic, terrestrial, radiological, social and economic impacts associated with decommissioning.

Copies of the DES are available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW. Washington, DC 20555, and at the Eureka-Humboldt County Library, 421 I Street (County Courthouse), Eureka, California. Upon written request to the Division of Technical Information and Document Control, Publication Services Section, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the extent available, since copies of the DES will be made available to interested persons without charge.

Interested persons may submit comments on this DES for the Commission's consideration. Federal, State, and specified local agencies are being provided with copies of the DES. Other local agencies may obtain these documents upon request.

Comments by Federal, State and local officials, or other members of the public received by the Commission will be made available for public inspection at the Commission's Public Document Room in Washington, DC and the Eureka-Humboldt County Library. Comments are due by June 16, 1986. After consideration of the comments submitted on the DES, the Commission's staff will prepare a Final Environmental Statement, the availability of which will be published in the **Federal Register.**

Comments on the DES from interested members of the public should be addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: John Philips, Chief, Rules and Procedures Branch, Division of Rules and Records, Office of Administration, 4000 MNBB.

Dated at Bethesda, Maryland, this 23rd day of April, 1986.

For the Nuclear Regulatory Commission.

Herbert N. Berkow,

Director, Standardization and Special Projects Directorate, Division of PWR Licensing-B

[FR Doc. 86–9470 Filed 4–25–86; 8:45 am]

BILLING CODE 7590–01–M

[Docket Nos. 50–338 and 50–339]

Virginia Electric and Power Co. et al.; Issuance of Amendments to Facility Operating Licenses

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment Nos. 76 and 65 to Facility Operating License Nos. NFP–4 and NPF–7, issued to Virginia Electric and Power Company and Old Dominion Electric Cooperative (the licensee), which amended the Licenses for operation of the North Anna Power Station, Units 1 and 2 (the facility), located in Louisa County, Virginia. The amendments were effective as of the date of their issuance.

The amendments add a license condition to allow for receipt and storage of 500 spent fuel assemblies from the Surry Power Station, Unit Nos. 1 and 2.

The application for the amendments complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendments.

Notice of Proposed Issuance of Amendments to Facility Operating Licenses in connection with this action was published in the **Federal Register** on September 22, 1982 (47 FR 41892).

Petitions to intervene were filed by Louisa County, Virginia and Board of Supervisors of Louisa County, Virginia, and by the Concerned Citizens of Louisa County, Virginia, dated October 22, 1982. By Order dated May 22, 1984, the Atomic Safety and Licensing Board

(ASLB) granted Louisa County's request to withdraw. By Order dated October 15, 1984, the ASLB admitted Concerned Citizens of Louisa County as a party to the proceeding. An evidentiary hearing was held May 21 and 22, 1985, in Charlottesville, Virginia. On September 3, 1985, the ASLB issued an Initial Decision which authorized the Director of Nuclear Reactor Regulation to amend the operating licenses for North Anna Units 1 and 2 to permit the receipt and storage of 500 spent fuel assemblies generated at Surry 1 and 2. On October 9, 1985, the Atomic Safety and Licensing Appeal Board (ASLAB) issued an order stating that it would be conducting its *sua sponte* review and that the Initial Decision of the ASLB would not be deemed final pending further order of the ASLAB. By Order dated November 1, 1985, the ASLAB, after *sua sponte* review, affirmed the ASLB decision of September 3, 1985. The ASLAB decision became final on December 11, 1985.

The Commission prepared an Environmental Assessment and Finding of No Significant Impact related to the action and concluded that an environmental impact statement is not warranted because there will be no environmental impact attributable to the action significantly beyond that which has been predicted and described in the Commission's Final Environmental Statement for the facility dated April 1973.

For further details with respect to the action see (1) the application for amendments dated July 13, 1982 as supplemented by letters dated October 21, 1982; June 16, July 19, July 25, September 13, October 28, November 10 and 23, and December 6, 1983; April 10, May 8, and May 18, 1984, (2) Amendment Nos. 76 and 65 to Facility Operating License Nos. NPF–4 and NPF–7, (3) the Commission's related Safety Evaluation issued July 2, 1984, and (4) the Environmental Assessment issued July 2, 1984. All of these items are 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. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of PWR Licensing–A.

Dated at Bethesda, Maryland, this 21st day of April, 1986.

For the Nuclear Regulatory Commission.

Lester S. Rubenstein,

Director PWR Project Directorate No. 2 Division of PWR Licensing–A.

[FR Doc. 86–9471 Filed 4–25–86; 8:45 am]

BILLING CODE 7590–01–M

Advisory Committee on Reactor Safeguards, Subcommittee on Scram Systems Reliability; Meeting Postponement

The **Federal Register** published on Thursday, April 17, 1986 (51 FR 13119) a Notice concerning the meeting of the ACRS Subcommittee on Scram Systems Reliability scheduled for May 6, 1986, Room 1046, 1717 H Street, NW, Washington, DC. The meeting has been postponed until July.

Dated: April 23, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86–9469 Filed 4–25–86; 8:45 am]

BILLING CODE 7590–01–M

Documents Containing Reporting or Recordkeeping Requirements: 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 Regulatory 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 Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission—new, revision, or extension: Extension

2. The title of the information collection: Reactor Operator and Senior Reactor Operator Licensing Training and Requalifications Programs

3. The form number if applicable: N/A

4. How often the collection is required: Semi-annually, annually and biennially

5. Who will be requred or asked to report: All reactor licensees and applicants for an operating license.

6. An estimate of the number of responses: 124 annually

7. An estimate of the total number of hours needed to complete the requirement or request: 1494 annually

8. Section 3504(h), Pub. L 96–511 does not apply.

9. Abstract: Requests copies of training and requalification material from reactor licensees/applicants. This training material will be used by appropriate NRC staff to develop operator and senior operator licensing and requalification examinations.

ADDRESSEES: Copies of the submittal will be made available for inspection or copying for a fee at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

FOR FURTHER INFORMATION: Comments and questions should be directed to the OMB reviewer Jefferson B. Hill, (202) 396–7340.

NRC Clearance Officer is R. Stephen Scott, (301) 492–8585.

Dated at Bethesda, Maryland, this 20th day of May, 1986.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 86–9467 Filed 4–25–86; 8:45 am]

BILLING CODE 1590–01–M

Documents Containing Reporting or Recordkeeping Requirements; 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 Regulatory 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 Reduction Act (44 U.S.C. Chapter 35).

1. Type of submission, new revision or extension: New.

2. The title of the information collection: Emergency Response Data System Requirements Analysis, Site Surveys.

3. The form number if applicable: Not applicable.

4. How often the collection is required: Once.

5. Who will be required or asked to report: NRC power reactor licensees.

6. An estimate of the number of responses: 60.

7. An estimate of the total number of hours needed to complete the requirement or request: 2,080.

8. An indication of whether section 350(h), Pub. L. 96–511 applies: Not applicable.

9. Abstract: The proposed implementation of an Emergency Response Data System, which would provide nuclear power plant data to the NRC during an emergency, necessitates

the NRC obtaining information on the design of emergency data systems used by NRC power reactor licensees.

Copies of the submittal may be inspected or obtained for a fee from NRC Public Document Room, 1717 H Street N.W., Washington, D.C. 20555.

Comments and questions should be directed to the OMB reviewer, Jefferson B. Hill (202) 395-7340.

NRC Clearance Officer is R. Stephen Scott, (301) 492-8585.

Dated at Bethesda, Maryland, this 20th day of April 1985.

For the Nuclear Regulatory Commission.

Patricia G. Norry,

Director, Office of Administration.

[FR Doc. 86-9468 Filed 4-25-86; 8:45 am]

BILLING CODE 7590-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Order 86-4-69]

Application of Stateswest Airlines, Inc. for Certification Authority Under Subpart Q

AGENCY: Department of Transportation.

ACTION: Notice of Order to Show Cause, (Order 86-4-69) Docket 43741.

SUMMARY: The Department of Transportation is directing all interested persons to show cause why it should not issue an order finding StatesWest Airlines, Inc., fit and awarding it a certificate of public convenience and necessity to engage in scheduled interstate and overseas air transportation.

DATES: Persons wishing to file objections should do so no later than May 14, 1986.

ADDRESSES: Objections and answers to objections should be filed in Docket 43741 and addressed to the Documentary Services Division (C-55, Room 4107), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590 and should be served upon the parties listed in Attachment A to the order.

FOR FURTHER INFORMATION CONTACT: Mrs. Carol A. Szekely, Special Authorities Division (P-47, Room 6420), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 755-3812.

Dated: April 23, 1986.

Matthew V. Scocozza,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 86-9476 Filed 4-25-86; 8:45 am]

BILLING CODE 4910-62-M

[Docket 43754]

Aviation Proceedings; NWA-Republic Acquisition Case; Hearing

Notice is hereby given that a hearing in the above-entitled matter is assigned to be held on April 29, 1986, at 10:00 a.m. (local time) in Room 5332, Nassif Building, 400 7th Street, SW., Washington, DC 20590, before the undersigned administrative law judge.

Dated at Washington, DC, April 22, 1986.

Ronnie A. Yoder,

Administrative Law Judge.

[FR Doc. 86-9477 Filed 4-25-86; 8:45 am]

BILLING CODE 4910-62-M

Coast Guard

[CGD 79-116 & 79-116a]

Towing Safety Advisory Committee, Tankerman Regulations Subcommittee; Meeting

AGENCY: Coast Guard, DOT.

ACTION: Notice of Meeting.

SUMMARY: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given of a meeting of the Tankerman Regulations Subcommittee of the Towing Safety Advisory Committee (TSAC). The subcommittee meeting will be held on 3 June 1986 in Room 1301 at U.S. Coast Guard Headquarters, 2100 Second Street, SW., Washington, DC. The meeting will begin at 12:30 p.m. and end at 3:30 p.m. The agenda for the meeting consists of the following items:

1. Call to Order.
2. Discussion of the following topics:
(a) Definition of terms.
(b) Tankerman (Barge Watchman).
(c) Barges eligible for special barge requirements.
(d) Barge firefighting course.
(e) Barge product courses.
(f) Service requirements.
3. Adjournment.

Attendance is open to the interested public. Members of the public may present oral or written statements at the meeting. Additional information may be obtained from Captain R. F. Ingraham, Executive Director, Towing Safety Advisory Committee, U.S. Coast Guard (G-CMC/21), Washington, DC 20593 or by calling (202) 426-1477.

Dated: April 23, 1986.

R. F. Ingraham,

Captain, U.S. Coast Guard, Executive Director, Towing Safety Advisory Committee.

[FR Doc. 86-9436 Filed 4-25-86; 8:45 am]

BILLING CODE 4910-14-M

Federal Aviation Administration

[Summary Notice No. PE-86-10]

Petitions for Exemption; Summary of Petitions Received Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR 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 May 8, 1986.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules of 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, DC 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 April 22, 1986.

Richard C. Beitel,

Acting Assistant Chief Counsel Regulations and Enforcement Division.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
8429	Northern Air Cargo, Inc.	14 CFR §§ 91.39(b)	To allow petitioner to carry outsize cargo on C-82 restricted category aircraft within the State of Alaska. Also requested deletion of those provisions of Condition No. 2, which preclude operations with C-82 aircraft into airports within Alaska into which standard category aircraft can be operated with the same outsize cargo on board.

[FR Doc. 86-9350 Filed 4-25-86; 8:45 am]
BILLING CODE 4910-13-M

Federal Railroad Administration

Petitions for Exemption or Waiver

In accordance with 49 CFR 211.9 and 211.41, notice is hereby given that five railroads have petitioned the Federal Railroad Administration (FRA) for a waiver of compliance with the provisions of the Hours of Service Act (83 Stat. 464, Pub. L. 91-169, 45 U.S.C. 64a(e)).

The Hours of Service Act currently makes it unlawful for a railroad to require specified employees to remain on duty for a period in excess of twelve hours. However, the Hours of Service Act contains a provision that permits a railroad which employs not more than fifteen employees who are subject to the statute to seek an exemption from the twelve hour limitation.

Eureka Southern Railroad (EUKA)

FRA Waiver Petition Docket No. HS-86-2

The EUKA provides service between Willits and Eureka, California, a distance of 145 miles. The normal operation of the railroad calls for the operation of three trains per day, with work completed within the twelve hour limitation. This exemption, if granted would allow the carrier to function if they encountered unusual operating conditions or circumstances.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than fifteen employees and has demonstrated good cause for granting this exemption.

Central Montana Rail, Inc. (CMR)

FRA Waiver Petition Docket No. HS-86-3

The CMR provides service between Spring Creek Junction and Geraldine, Montana, a distance of 66 miles. Service is provided on an as needed basis, with work completed within the twelve hour limitation. This exemption, if granted would allow the carrier to function if they encountered unusual operating conditions or circumstances.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than fifteen employees and has demonstrated good cause for granting this exemption.

Chillicothe Southern Railroad (CS)

FRA Petition Docket No. HS-86-4

The CS provides service between Chillicothe and Brunswick, Missouri, a distance of 39 miles. The normal operation of the railroad calls for only one train per day, with work completed within the twelve hour limitation. This exemption, if granted would allow the carrier to function if they encountered unusual operating conditions or circumstances.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than fifteen employees and has demonstrated good cause for granting this exemption.

Huron and Eastern Railway Company (HERC)

FRA Waiver Petition Docket No. HS-86-5

The HERC plans to provide service on an 82-mile system from Bad Axe, Michigan, to Crosswell, Michigan, plus several small branch lines. The HERC states that because of additional maintenance required to restore these former Chesapeake and Ohio branch lines that the train crew will not be able to complete a trip within 12 hours, and therefore requests an exemption.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than fifteen employees and has demonstrated good cause for granting this exemption.

Allegheny Railroad (ALR)

FRA Waiver Petition Docket No. HS-86-6

The ALR provides service over a 150-mile long system. The ALR states that it is not their intention to employ a train crew over twelve (12) hours per day under normal operating conditions, but that this exemption, if granted, would help their operation if they encountered unusual operating conditions or circumstances.

The petitioner indicates that granting the exemption is in the public interest and will not adversely affect safety. Additionally, the petitioner asserts that it employs not more than fifteen employees and has demonstrated good cause for granting this exemption.

Interested persons are invited to participate in these proceedings by submitting written views and comments. FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. Communications concerning the proceeding should identify the docket number and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Communications received before June 12, 1986 will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination both before and after the closing date for comments during regular business hours (9 a.m.-5 p.m.) in Room 8201, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Issued in Washington, DC, on April 17, 1986.

J.W. Walsh,
Associate Administrator for Safety.

[FR Doc. 86-9348 Filed 4-25-86; 8:45 am]
BILLING CODE 4910-06-M

DEPARTMENT OF THE TREASURY

Customs Service

Customs Broker License: Cancellation with Prejudice

This is to advise that pursuant to 641, Tariff Act of 1930, as amended (19 U.S.C. 1641), and § 111.51(b), Customs Regulations (19 CFR 111.51(b)), upon the specific request of Charles A. Lorme', Jr.,

Massapequa, New York, the individual Customs Broker license No. 4458, issued to Charles A. Lorme', Jr., and the Corporate Customs Broker License No. 4646, issued for Lorme' International Ltd., both for the New York Customs Region, are hereby cancelled with prejudice.

Date: April 21, 1986.

Alfred R. De Angelus,

Acting Commissioner of Customs.

[FR Doc. 86-9426 Filed 4-25-86; 8:45 am]

BILLING CODE 4820-02-M

Application for Recordation of Trade Name: "CHRISTIAN KIM, INC."

ACTION: Notice of Application for Recordation of Trade Name.

SUMMARY: Application has been filed pursuant to § 133.12, Customs Regulations (19 CFR 133.12), for the recordation under section 42 of the Act of July 5, 1946, as amended (15 U.S.C. 1124), of the trade name "CHRISTIAN KIM, INC." used by Christian Kim, Inc., a corporation organized under the laws of the State of California, located at 124 East Olympic Boulevard, Los Angeles, California 90015.

The application states that the trade name is used in connection with footwear, manufactured in Korea.

Before final action is taken on the application, consideration will be given to any relevant data, views, or arguments submitted in writing by any person in opposition to the recordation of this trade name. Notice of the action taken on the application for recordation of this trade name will be published in the Federal Register.

DATE: Comments must be received on or before June 27, 1986.

ADDRESS: Written comments should be addressed to the Commissioner of Customs, Attention: Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT: Harriet Lane, Entry, Licensing and Restricted Merchandise Branch, 1301 Constitution Avenue, NW., Washington, DC 20229 (202-566-5765).

Dated: April 24, 1986.

Steven I. Pinter,

Acting Director, Entry Procedures and Penalties Division.

[FR Doc. 86-9427 Filed 4-25-86; 8:45 am]

BILLING CODE 4820-02-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 81
Monday, April 28, 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, May 1, 1986.

LOCATION: Third Floor Hearing Room, 1111–18th Street, NW., Washington, DC.

STATUS: Open to the Public.

MATTERS TO BE CONSIDERED:

FY '88 Planning

The Commission will consider proposed Fiscal Year 1988 planning issues.

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.

Dated: April 23, 1986.

Sheldon D. Butts,

Deputy Secretary.

[FR Doc. 86–9474 Filed 4–23–86; 4:32 pm]

BILLING CODE 6355–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 12:10 p.m. on Wednesday, April 23, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to adopt: (1) A resolution (a) making funds available for the payment of insured deposits in Union County Bank, Maynardville, Tennessee, which had been closed by the Commissioner of Financial Institutions for the State of Tennessee on Tuesday, April 22, 1986, (b) accepting the bid of Commercial Bank of Claiborne County, Harrogate, Tennessee, an insured State nonmember bank, for the transfer of the insured and fully secured or preferred deposits of the closed bank, and (c) designating Commercial Bank of Claiborne County, Harrogate, Tennessee, as the agent for the Corporation for the payment of insured and fully secured or preferred deposits of the closed bank; and (2) an Order approving the application of Commercial Bank of Claiborne County, Harrogate, Tennessee, for consent to purchase certain assets of and assume the liability to pay certain deposits made in Union County Bank, Maynardville, Tennessee.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive) concurred in by Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(8), (c)(9)(A)(ii), and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

Dated: April 24, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86–9535 Filed 4–24–86; 3:03 pm]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION

Agency Meeting

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 8:45 a.m. on Thursday, April 24, 1986, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session, by telephone conference call, to consider:

(A) Recommendations regarding the initiation of administrative enforcement proceedings against insured banks; and

(B) The application of Eaton National Bank & Trust Co., Eaton, Ohio, for consent to purchase certain assets of and assume the deposits made in The New Paris Loan and Building Co., New Paris, Ohio, a non-FDIC-insured institution.

In calling the meeting, the Board determined, on motion of Chairman L. William Seidman, seconded by Director C.C. Hope, Jr. (Appointive), concurred in by Robert J. Herrmann, acting in the place and stead of Director Robert L. Clarke (Comptroller of the Currency), that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(6), (c)(8), and (c)(9)(A)(ii)).

Dated: April 24, 1986.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86–9536 Filed 4–24–86; 3:04 pm]

BILLING CODE 6714–01–M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

April 23, 1986.

TIME AND DATE: 10:00 a.m., April 22, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, D.C.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

MATTERS TO BE CONSIDERED: In addition to the previously announced items, the Commission also discussed the following:

3. Litigation matters.

It was determined by a unanimous vote of the Commissioners that this item be added to the meeting and no earlier announcement of the addition was possible.

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen 202–653–5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 86–9547 Filed 4–24–86; 3:53 pm]

BILLING CODE 6735–01–M

5

POSTAL SERVICE BOARD OF GOVERNORS

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. section 552b), hereby gives notice that it intends to hold a meeting at 8:30 a.m. on Tuesday, May 6, 1986, in the Benjamin Franklin Room, U.S. Postal Service Headquarters, 475 L'Enfant Plaza, SW., Washington, DC. The meeting is open to the public. The Board expects to disucss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268–4800.

There will also be a session of the Board on Monday, May 5, 1986, but it will consist entirely of briefings and not be open to the public.

Agenda

Tuesday Session

May 6, 1986—8:30 a.m. (Open)

1. Minutes of the Previous Meeting, April 7–8, 1986.
2. Remarks of the Postmaster General.
3. Quarterly Report on Service Performance. (Mr. Coughlin, Senior Assistant Postmaster General, Operations Group, will present the quarterly summary on service performance.)
4. Report on INTELPOST. (Mr. Morison, Assistant Postmaster General, Marketing Department, will present an update report on INTELPOST operations.)
5. Report on Open Testing Program. (OPTEX). (Mr. Charters, Assistant Postmaster General, Employee Relations Department, will present a report on testing procedures for job applications.)
6. Capital Investment: (1) 497 Truck Tractors. (Mr. Coughlin, Senior Assistant Postmaster General, Operations Department, will present this item.)
8. Tentative agenda for June 2–3, 1986, meeting in Washington, DC.

David F. Harris,

Secretary.

[FR Doc. 86–9532 Filed 4–24–86; 2:24 am]

BILLING CODE 7710–12–M

6

SECURITIES AND EXCHANGE COMMISSION

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meetings during the week of April 28, 1986:

A closed meeting will be held on Tuesday, April 29, 1986, at 2:30 p.m. An open meeting will be held on Wednesday, May 7, 1986, at 1:00 p.m., in Room 1C30.

The Commissioners, Counsel to the Commissioners, the Secretary of the Commission, and recording secretaries will attend the closed meeting. Certain staff members who are responsible for the calendered matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4), (8), (9)(A) and (10) and 17 CFR 200.402(a)(4), (8), (9)(i) and (10), permit consideration of the scheduled matters at a closed meeting.

Commissioner Cox, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, April 29, 1986, at 2:30 p.m., will be:

Institution of administrative proceedings of an enforcement nature.

Settlement of administrative proceedings of an enforcement nature.

Institution of injunctive actions.

Chapter 11 proceeding.

Regulatory matter regarding financial institution.

Formal order of investigation.

The subject matter of the open meeting scheduled for Wednesday, May 7, 1986, at 1:00 p.m., will be:

Discussion with invited representatives from the financial community, the self-regulatory organizations, and state securities commissions on issues raised by the rapid growth of investment advisers, including financial planners. The issues to be addressed include, but will not be limted to, whether such growth has resulted or may result in problems, whether current regulation is effective, and whether new, cost-effective regulatory or legislative approaches are required. For further information, please contact Cecile Srodes at (202) 272–2500.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: David Mahaffey at (202) 272–2091.

Shirley E. Hollis,

Assistant Secretary.

April 23, 1986.

[FR Doc. 86–9508 Filed 4–24–86; 12:04 pm]

BILLING CODE 8010–01–M

federal register

Monday
April 28, 1986

Part II

Department of Health and Human Services

Office of Human Development Services

Grants Availability; Dependent Care Planning and Development; State Funds; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Human Development Services

State Grants for Dependent Care Planning and Development

AGENCY: Office of Human Development Services, HHS.

ACTION: Notice of the availability of State grant funds for dependent care planning and development.

SUMMARY: FY 1986 funds are available for grants to States (including the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau). These grant funds may be used only for the planning, development, establishment, expansion, or improvement of (1) State and local dependent care resource and referral systems, and (2) programs to furnish school-age child care services before and after school in public or private school facilities or in community centers in communities where school facilities are not available.

This Notice sets forth the requirements and application process for these grants.

DATES: Applications must be received by June 27, 1986.

Address applications to: Dependent Care Grant Program, Paget W. Hinch, Associate Commissioner, Family and Youth Services Bureau, Administration for Children, Youth and Families, P.O. Box 1182, Washington, DC 20012.

FOR FURTHER INFORMATION CONTACT: Family and Youth Services Bureau (202) 755–7800.

SUPPLEMENTARY INFORMATION:

Background

Pub. L. 98–558, the Human Services Reauthorization Act of 1984 (98 Stat. 2880), was enacted October 30, 1984. Subchapter D of that Act is entitled "Grants to States for Planning and Development of Dependent Care Programs and for Other Purposes." We will refer to subchapter D as "the Act" in this Notice.

The purpose of this new program is to provide States with funds for activities in two specific areas: activities related to dependent care resource and referral systems and activities related to school-age child care services. In each of these two areas, funds may be used to assist in the planning, development, establishment, expansion, or improvement of services. However, funds may not be used for costs of operation of any resource and referral system or any before or after school child care program established, expanded, or improved under the Act; to make cash payments to intended recipients of services; to subsidize direct provision of services; to pay for construction or renovation; or to be used as matching funds for Federal funds. Forty percent of funds must be used for activities related to dependent care resource and referral systems and sixty percent for activities related to school-age child care services.

No funds are proposed for Dependent Care Planning Grants for FY 1987. Currently, States, at their option, fund such programs and activities under the social services block grant (SSBG) program, funded at $2.583 billion in FY 1986. Similar programs may continue to be funded through the Child Welfare Services program, proposed for funding at $200 million for FY 1987, and the SSBG, proposed to be increased to $2.7 billion in FY 1987. Decisions to fund such service programs are made at the State and local level.

Availability of Funds, Eligibility, Matching and Fiscal Requirements

The Department's FY 1986 appropriation bill, Pub. L. 99–178, appropriated $5 million to implement this program. Pub. L. 99–177, the Gramm-Rudman-Hollings legislation, reduces this appropriation to $4.785 million.

Funds are alloted to the States based on the formula in section 670B of the Act. States eligible for these grants are defined in section 670G(10) to mean the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virginia Islands, the Commonwealth of the Northern Mariana Islands, and the Republic of Palau (in place of the Trust Territory of the Pacific Islands in accordance with section 514 of Public Law 99–178). Each State shall receive an amount which bears the same ratio to the total amount appropriated as the population of the State bears to the population of all States, except that no State will receive less than $50,000. The $50,000 minimum does not apply to the eligible Territories and Insular Areas. State allotments appear in the table at the end of this notice.

Section 670D(e)(1) of the Act requires that the Federal share of any project supported under this program shall not exceed 75 percent, thus requiring 25 percent State matching funds.

These funds must be administered in compliance with 45 CFR Part 74, the Department's rule on administration of grant funds. These funds must be expended by September 30, 1987.

Summary of Requirements

This legislation contains many specific and detailed requirements, including cross references to definitions and requirements in a variety of other statutes. For ease of comprehension and administration, we have repeated the requirements here with appropriate statutory citations. (We note that section 670E(d) contains an erroneous cross-reference to section 1906(a)(1)–(5) of the Public Health Service Act. Only paragraphs (a)(1) and (a)(2) of section 1906 exist and are included here.

The chief executive officer of each State must designate an agency to administer these funds. If the agency designated is not a State or local education agency, the designated agency must have an agreement with the State or local education agency, the designated agency must have an agreement with the State or local education agency, institution of higher education, or community center to carry out certain specified requirements. (Section 670D(b)(2)(A).)

A. Definitions

(1) The term "community center" means facilities operated by non-profit community-based organizations for the provision of recreational, social or educational services to the general public (section 670G(1)).

(2) The term "dependent" means:

(a) An individual who has not attained the age of 17 years;

(b) An individual who has attained the age of 55 years; or

(c) A person with a developmental disability (section 670G(2)).

(3) The term "developmental disability" means a severe chronic disability of a person which—

(a) Is attributable to a mental or physical impairment or combination of mental and physical impairments;

(b) Is manifested before the person attains age 22;

(c) Is likely to continue indefinitely;

(d) Results in substantial functional limitations in three or more of the following areas of major life activity: (1) Self-care, (2) receptive and expressive language, (3) learning, (4) mobility, (5) self-direction, (6) capacity for independent living, and (7) economic self-sufficiency; and

(e) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

(Section 670G(3) of the Act and section 102(7) of the Developmental Disabilities Assistance and Bill of Rights Act.)

(4) The term "equipment" includes machinery, utilities, and building equipment and any necessary enclosure or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture; printed, published, and audio-visual instructional materials; and books, periodicals, documents, and other related materials. (Section 670G(4) of the Act and section 198(a)(8) of the Elementary and Secondary Education Act of 1965.)

(5) The term "institution of higher education" means an educational institution in any State which (1) admits as regular students only persons having a certificate of graduation from a school providing secondary education, or the recognized equivalent of such a certificate, (2) is legally authorized within such State to provide a program of education beyond secondary education, (3) provides an educational program for which it awards a bachelor's degree or provides not less than a two-year program which is acceptable for full credit toward such a degree, (4) is a public or other nonprofit institution, and (5) is accredited by a nationally recognized accrediting agency or association, or if not so accredited, (A) is an institution with respect to which the Secretary has determined that there is satisfactory assurance, considering the resources available to the institution, the period of time, if any, during which it has operated, the effort it is making to meet accreditation standards, and the purpose for which this determination is being made, that the institution will meet the accreditation standards of such an agency or association within a reasonable time, or (B) is an institution whose credits are accepted, on transfer, by not less than three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited. Such term also includes any school which provides not less than a one-year program of training to prepare students for gainful employment in a recognized occupation and which meets the provision of clauses (1), (2), (4), and (5). Such term also includes a public or nonprofit private educational institution in any State which, in lieu of the requirement in clause (1), admits as regular students persons who are beyond the age of compulsory school attendance in the State in which the institution is located and who have the ability to benefit from the training offered by the institution. For purposes of this definition, the Secretary (of the Department of Education) shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of training offered. (Section 670G(5) of the Act and section 1201(a) of the Higher Education Act of 1965.)

(6) The term "local education agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school. (Section 670G(6) of the Act and section 198(a)(10) of the Elementary and Secondary Education Act of 1965.)

(7) The term "school-age children" means children aged five through thirteen. (Section 670G(7) of the Act.)

(8) The term "school facilities" means classrooms and related facilities used for the provision of education. (Section 670G(8) of the Act.)

(9) The term "Secretary" means the Secretary of Health and Human Services. (Section 670G(9) of the Act.)

(10) The term "State educational agency" means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools. (Section 670G(11) of the Act and section 198(a)(17) of the Elementary and Secondary Education Act of 1965.)

B. Use of Allotments

1. Information and Referral Systems

Subject to the limitations listed below, forty percent of the funds alloted to each State shall be available for the planning, development, establishment, expansion, or improvement, directly or by grant or contract with public or private entities, of State and local resource and referral systems to provide information concerning the availability, types, costs, and locations of dependent care services.

The information provided by any such system shall include—

(a) The types of dependent care services available, including services provided by individual home, religious organizations, community organizations, employers, private industry, and public and private institutions;

(b) The costs of available dependent care services;

(c) The locations in which dependent care services are provided;

(d) The forms of transportation available to such locations;

(e) The hours during which such dependent care services are available;

(f) The dependents eligible to enroll for such dependent care services; and

(g) Any resource and referral system planned, developed, established, expanded, or improved with amounts paid to a State under the Act.

In carrying out clause (g) of the previous sentence, no information shall be included with respect to any dependent care services which are not provided in compliance with the laws of the State and localities in which such services are provided. (Section 670D (a) and (c) of the Act.)

2. School-Age Child Day Care

Subject to the limitations listed below, sixty percent of the funds allocated to each State shall be available for the planning, development, establishment, expansion, or improvement by the States, directly, or by grant or contract with public agencies or private nonprofit organizations of programs to furnish school-age child care services before and after school in public or private school facilities or in community centers in communities where school facilities are not available. (Section 670D(b) and (c)(2) of the Act.)

3. Limitations on the Use of the Funds

A State may not use these funds to—

(1) Pay the costs of operation of any resource and referral system or before or after school child care program established, expanded, or improved with funds under the Act;

(2) Make cash payments to intended recipients of dependent care services including child care services;

(3) Subsidize the direct provision of dependent care services including child care services;

(4) Pay for construction or renovation; or

(5) Satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds. (Section 670(d) of the Act.)

4. Administrative Cost Limitation

Not more than 10 percent of each State's allotment may be used for the cost of administration. (Section 670D(e)(2) of the Act.)

5. Non-Duplication of Programs

Projects supported with funds under this program to plan, develop, establish, expand, or improve a State or local resource and referral system or before or after school child care program shall not duplicate any services which, prior to the date of enactment of the Act, are provided by the State or locality which will be served by such system. (Section 670D(f) of the Act.)

C. Application and Description of Activities: Requirements

In order to receive an allotment under section 670B, each State shall submit an annual application to the Office of Human Development Services at the address specified above. There is no application kit; the State's application may be in the format of its choice. It must, however, be signed by the chief executive officer of the State, and contain the following certifications, assurances, and information:

1. Certifications

a. The State agrees to use the funds allotted to it under section 670B in accordance with the requirements of the Act. (Section 670E(b)(1) of the Act.)

b. The State agrees that Federal funds made available under section 670C for any period will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the programs and activities for which funds are provided under that section and will in no event supplant such State, local, and other non-Federal funds. (Section 670E(b)(2) of the Act.)

2. Assurances

a. In the case of an applicant that is not a State or local educational agency, the applicant for these funds has or will enter into an agreement with the State or local educational agency, institution of higher education or community center containing provisions for—

(i) the use of facilities for the provision of before or after school child care services (including such use during holidays and vacation periods),

(ii) the restrictions, if any, on the use of such space, and

(iii) the times when the space will be available for the use of the applicant. (Section 670D(b)(2)(A) of the Act.)

b. The parents of school-age children will be involved in the development and implementation of the program for which assistance is sought under the Act. (Section 670D(b)(2)(C) of the Act.)

c. The applicant is able and willing to seek to enroll racially, ethnically, and economically diverse as well as handicapped school-age children in the child care service program for which assistance is sought under the Act. (Section 670D(b)(2)(D) of the Act.)

d. The child care program is in compliance with State and local licensing laws and regulations governing day care services for school-age children to the extent that such regulations are appropriate to the age group served. (Section 670E(b)(2)(E) of the Act.)

e. Other assurances as the Governor may reasonably require to carry out the provisions of this Act. (Section 670D(b)(2)(F) of the Act.)

3. Information

a. An estimate of the costs of the establishment of the child care service program in the public or private school facilities or community centers. (Section 670D(b)(2)(B) of the Act.)

b. A description of the intended use of the payment the State will receive under section 670C including information on the programs and activities to be supported. (Section 670D(c) of the Act.)

D. Annual Report Requirements

Each State shall prepare and submit to the Secretary an annual report on its activities under this program. Such reports shall contain information so that the Secretary can:

(1) Determine whether funds were expended in accordance with the requirements of this statute;

(2) Secure a description of the projects, programs and services assisted by funds made available under section 670B, including a summary of the services which were provided, the providers of such services, and the individuals who received such services; and

(3) Secure a record of the purposes for which the funds were spent, of the recipients of such funds, and of the progress made toward achieving the purposes for which the funds were provided. (Section 1906(a)(1) of the Public Health Service Act.)

The annual report on the use of these FY 1986 funds is due to the Department of Health and Human Services, Office of Human Development Services by December 30, 1988.

E. Public Review Requirements

The description of the intended use of the State's allotment shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal. The description shall be revised (consistent with the provisions of the Act) until September 30, 1987, as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this subchapter, and any revision shall be subject to the requirements of the preceding sentence. (Section 670E(c) of the Act.)

Copies of the annual report shall be provided, upon request, to any interested person (including any public agency). (Section 670E(d) of the Act and section 1906(a)(1) of the Public Health Service Act.)

Copies of the annual report and the audit shall be made available for public inspection within the State. (Section 670E(d) of the Act and section 1906(b)(4) of the Public Health Service Act.)

F. Additional Requirements and Provisions

1. Potential Reduction in State Allotments

The Secretary, at the request of a State, may reduce the amount of payments under section 670B by—

(i) The fair market value of any supplies or equipment furnished the State, and

(ii) The amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the State and the amount of any other costs incurred in connection with the detail of such officer or employee, when the furnishing of supplies or equipment or the detail of an officer or employee is for the convenience of and at the request of the State and for the purpose of conducting activities described under the Act. The amount by which any payment is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment or in detailing the personnel, on which the reduction of the payment is based, and the amount shall be deemed to be part of the payment and shall be deemed to have been paid to the State. (Section 670E(d) of the Act and section 1903(b) of the Public Health Service Act.)

2. Fiscal controls

Each State shall establish fiscal control and fund accounting procedures as may be necessary to assure the proper disbursal of and accounting for Federal funds paid to the State under section 670B. (Section 670E(d) of the Act and section 1906(b)(1) of the Public Health Services Act.)

3. Audits

Eact State shall conduct audits of this program in accordance with the provisions of the Single Audit Act of

1984, OMB Circular A–128, and 45 CFR Part 74.62. In general, audits must be conducted annually by independent auditors based on generally accepted government auditing standards. The audits or series of audits typically will cover the entire operations of a State and should be submitted to the HHS Regional Inspector General for Audit in the HHS region in which the State is located. (Section 670E(d) of the Act cross-references section 1906(b)(2) of the Public Health Service Act which has been superceded by the Single Audit Act of 1984.)

4. Repayment

Each State shall, after being provided by the Secretary with adequate notice and opportunity for a hearing within the State, repay to the United States amounts found not to have been expended in accordance with the requirements of this part or the certifications provided by the State under section 670E. If such repayment is not made, the Secretary shall, after providing the State with adequate notice and opportunity for a hearing within the State, offset such amounts against the amount of any allotment to which the State is or may become entitled under this program. (Section 670E(d) of the Act and Section 1906(b)(3) of the Public Health Service Act.)

5. Comptroller General Review

The Comptroller General of the United States shall from time to time, evaluate the expenditures by States of grants under this Act in order to assure that expenditures are consistent with the provisions of the Act. (Section 670E(d) of the Act and section 1906(b)(5) of the Public Health Service Act.)

6. Withholding

The Secretary shall, after adequate notice and an opportunity for a hearing conducted within the affected State, withhold funds from any State which does not use its allotment in accordance with the requirements of this part or the certifications provided under section 670E. The Secretary shall withhold such funds until the Secretary finds that the reason for the withholding has been removed and there is reasonable assurance that it will not recur.

The Secretary may not institute proceedings to withhold funds under this program unless the Secretary has conducted an investigation concerning whether the State has used its allotment in accordance with the requirements of this part or the certifications provided under section 670E. Investigations required by this paragraph shall be conducted within the affected State by qualified investigators.

The Secretary shall respond in an expeditious manner to complaints of a substantial or serious nature that a State has failed to use funds in accordance with the requirements of this part or certifications provided under section 670E.

The Secretary shall conduct in several States in each fiscal year investigations of the use of funds received by the States under the Act in order to evaluate compliance with the requirements of the Act.

The Secretary may not withhold funds under this program from a State for a minor failure to comply with the requirements of this part or certifications provided under section 670E.

The Comptroller General of the United States may conduct investigations of the use of funds received under this part by a State in order to insure compliance with the requirements of this part and certifications provided under section 670E.

Each State, and each entity which has received funds from an allotment made to a State under the Act, shall make appropriate books, documents, papers, and records available to the Secretary or the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

In conducting any investigation in a State, the Secretary or the Comptroller General of the United States may not make a request for any information not readily available to such State or an entity which has received funds from an allotment made to the State under this part or make an unreasonable request for information to be compiled, collected, or transmitted in any form not readily available. The previous sentence does not apply to the collection, compilation, or transmittal of data in the course of a judicial proceeding. (Section 670E(d) of the Act and section 1907 of the Public Health Service Act.)

7. Nondiscrimination

(a)(1) For the purpose of applying the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975, on the basis of handicap under section 504 of the Rehabilitation Act of 1973, on the basis of sex under title IX of the Education Amendments of 1972, or on the basis of race, color, or national origin under title VI of the Civil Rights Act of 1964, programs and activities funded in whole or in part with funds made available under this part are considered to be programs and activities receiving Federal financial assistance.

(2) No person shall on the ground of sex or religion be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with funds made available under this part. (Section 670E(d) of the Act and section 1908 of the Public Health Service Act.)

(3) Each applicant is required to have on file with the Department of Health and Human Services an assurance of the requirements in paragraphs (a) (1) and (2) above before receiving Federal financial assistance under the Act.

(b) Whenever the Secretary finds that a State, or an entity that has received a payment from an allotment to a State under this program, has failed to comply with a provision of law referred to in paragraph (a)(1), with paragraph (a)(2) above, or with an applicable regulation (including one prescribed to carry out paragraph (a)(2), the Secretary shall notify the chief executive officer of the State and shall request him to secure compliance. If within a reasonable period of time, not to exceed sixty days, the chief executive officer fails or refuses to secure compliance, the Secretary may—

(1) Refer the matter to the Attorney General with a recommendation that an appropriate civil action be instituted,

(2) Exercise the powers and functions provided by title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, or section 504 of the Rehabilitation Act of 1973, as may be applicable, or

(3) Take such other action as may be provided by law.

(c) When a matter is referred to the Attorney General pursuant to paragraph (b)(1), or whenever he has reason to believe that a State or an entity is engaged in a pattern or practice in violation of a provision of law referred to in paragraph (a)(1) or in violation of paragraph (a)(2), the Attorney General may bring a civil action in any appropriate district court of the United States for such relief as may be appropriate, including injunctive relief. (Section 670E(d) of the Act and section 1908 of the Public Health Service Act.)

8. Criminal Penalty for False Statements

Whoever—

(a) Knowingly and willfully makes or causes to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which payment may be

made by a State from funds allotted to the State under the Act or

(b) Having knowledge of the occurrence of any event affecting his initial or continued right to any such payment conceals or fails to disclose such event with an intent fraudulently to secure such payment either in a greater amount than is due or when no such payment is authorized, shall be fined not more than $25,000 or imprisoned for not more than five years or both. (Section 670E(d) of the Act and section 1909 of the Public Health Service Act.)

Notification Under Executive Order 12372

This program is covered under Executive Order 12372, "Intergovernmental Review of Federal Programs," for State plan consolidation and simplification only (45 CFR 100.12). The review and comment provisions of the Executive Order and Part 100 do not apply.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (Pub. L. 96-511), the application requirements contained in this notice have been approved by the Office of Management and Budget under control number 0980-0178.

DEPENDENT CARE FISCAL YEAR 1986

State/territory	Allocation
Alabama	69,343
Alaska	50,000
American Samoa	699
Arizona	53,059
Arkansas	50,000
California	445,289
Colorado	55,231
Connecticut	54,814
Delaware	50,000
District of Columbia	50,000
Florida	190,754
Georgia	101,442
Guam	2,395
Hawaii	50,000
Idaho	50,000
Illinois	200,051
Indiana	95,551
Iowa	50,573
Kansas	50,000
Kentucky	64,703
Louisiana	77,546
Maine	50,000
Maryland	75,582
Massachusetts	100,764
Michigan	157,716
Minnesota	72,332
Mississippi	50,000
Missouri	87,035
Montana	50,000
Nebraska	50,000
Nevada	50,000
New Hampshire	50,000
New Jersey	130,604
New Mexico	50,000
New York	308,219

DEPENDENT CARE FISCAL YEAR 1986—Continued

State/territory	Allocation
North Carolina	107,142
North Dakota	50,000
Northern Mariana	379
Ohio	186,861
Oklahoma	57,316
Oregon	50,000
Palau	379
Pennsylvania	206,829
Puerto Rico	56,673
Rhode Island	50,000
South Carolina	57,351
South Dakota	50,000
Tennessee	81,977
Texas	277,875
Utah	50,000
Vermont	50,000
Virgin Islands	2,156
Virginia	97,949
Washington	75,582
West Virginia	50,000
Wisconsin	82,829
Wyoming	50,000
Total	4,785,000

(Catalog of Federal Domestic Assistance Number 13.673)

Dated: April 9, 1986.

Dorcas R. Hardy,

Assistant Secretary for Human Development Services.

[FR Doc. 86-9518 Filed 4-25-86; 8:45 am]

BILLING CODE 4130-01-M

Federal Register

Monday
April 28, 1986

Part III

Department of Commerce

Productivity, Technology, and Innovation; Study of Alternatives for Privatizing the National Technical Information Service; Notice and Request for Public Comment

DEPARTMENT OF COMMERCE

[Docket No. 60352-6052]

Productivity, Technology, and Innovation; Study of Alternatives for Privatizing the National Technical Information Service

AGENCY: National Technical Information Service, Commerce.

ACTION: Notice and request for public comment.

SUMMARY: The Department of Commerce is conducting a study of alternatives for privatizing the National Technical Information Service (NTIS). Various alternatives are being considered under which all or part of the National Technical Information Service would be operated by the private sector. This notice requests information and comments from all interested parties on those alternatives and on some associated policy issues. The Department of Commerce will draw on the information and comments in developing its recommendations and in proposing any legislation which might be required.

A change in the basic structure or operation of NTIS could affect several classes of persons and organizations. Comments are particularly, but not exclusively, invited from these classes, including: Customers for whom NTIS products and services provide access to U.S. and foreign government scientific and technical information; source organizations for which NTIS serves as a vehicle for the dissemination of research results; private sector organizations that derive revenue from products or services sold to, through or in conjunction with NTIS; private sector organizations interested in operating all or part of NTIS; and any other persons or organizations whose activities have been affected by current NTIS operations or might be affected by a change in those operations.

DATE: Comments must be received on or before May 28, 1986.

ADDRESS: Comments may be sent to the Assistant Secretary for Productivity, Technology and Innovation c/o Joseph Clark, Room 4824, U.S. Department of Commerce, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Joseph Clark, Deputy Director, NTIS (703) 487-4612.

This notice is divided into three parts: (1) A description of the operations of the National Technical Information Service; (2) a listing of privatization alternatives; and (3) a listing of issues.

Description of the National Technical Information Service

The National Technical Information Service (NTIS) operates under the authority of Title 15 U.S.C. 1151-1157, as amended, which authorizes the Secretary of Commerce to establish a clearinghouse for the collection and dissemination of scientific, technical and engineering information. Operating under this authority, the NTIS operation has evolved to include the following elements:

- Acquisition and dissemination of reports describing the results of research done primarily by Federal agencies, their contractors and grantees, but also including similar reports from state and local governments, colleges and universities, and professional associations.
- Acquisition (limited), translation and dissemination of foreign technical information.
- Acquisition and distribution of Federally-produced computer programs and computerized data bases.
- Operation of the Federal Research in Progress (FEDRIP) program which, as successor to the Smithsonian Scientific Information Exchange, provides information describing on-going Federally-funded research projects in the physical, engineering and life sciences.
- Operation of the Center for the Utilization of Federal Technology as called for in the Stevenson-Wydler Technology Innovation Act (Pub. L. 96-480).
- Assistance to state and local governments in furthering their technology transfer programs.
- Acquisition and licensing of government-owned patents with significant commercial potential.
- Provision of accounting and production services to Federal agencies, and technical assistance for the Agency for International Development's efforts to transfer U.S. scientific and technical information to developing countries.

The first four elements make up the clearinghouse program, the largest part of the NTIS operation. Through agreements with Federal agencies or with foreign firms and governments, NTIS acquires the reports, software programs and data bases; prepares bibliographies which describe and announce their availability; and sells the reports, programs, data bases and bibliographic materials.

Complete text reports are sold on an ad hoc or subscription basis, and are available in paper or microform. Software and data base tapes are sold on an ad hoc basis. Bibliographic material is sold as: A biweekly and an annual index to all reports; a weekly newsletter covering reports in each of 26 subject categories; an on-line data base; and ad hoc published and on-line searches.

The NTIS collection includes over 1.6 million titles. Because NTIS provides archival storage for reports entering its system, all are permanently available for sale, either as shelf stock or as a print from paper or microform master.

There is no legal or regulatory requirement for Federal agencies to place their reports in the NTIS system. In many cases, NTIS serves as a secondary distributor. Because of its secondary distribution role, and because of the highly technical nature of its reports, the current NTIS audience is limited; on average, NTIS sells less than 10 copies of each report it acquires.

Approximately 2,000 sources, both U.S. and foreign, place reports in the NTIS system. For FY 1985, the major sources were the Department of Defense (approximately 23% of all titles acquired), the National Aeronautics and Space Administration (4%), the Department of Energy (23%), foreign sources (25%, more than half of which enters NTIS through arrangements with DoE and NASA); and all other (25%).

Customers can purchase NTIS products on an ad hoc or annual subscription basis. Methods of payment include check, money order, credit card or invoice billing. Most regular customers establish deposit accounts at NTIS, drawing down on these accounts as necessary to purchase specific products. Major exceptions to these arrangements are: The services provided to other agencies (handled as reimbursables); patent licensing (partially funded by appropriations); and the bibliographic data bases (leased directly to major users, and leased to commercial vendors for third party, i.e., public, use).

Many regular customers purchase one or more bibliographic products and use these products to identify specific reports they need. Infrequent or one-time customers typically learn of the availability of a report through announcements in trade press or through customer-initiated contact with NTIS sales personnel.

Over the past 18 months, NTIS has sold its products to some 40,000 individuals, firms, schools, libraries and governments, both foreign and domestic. Approximately 75% of NTIS customers are small businesses. In the past year, NTIS has shipped over 4.5 million documents and microforms, an average

of 18,000 each day. Approximately 15% of NTIS sales are to foreign customers.

NTIS operations are located in Springfield, Virginia, in the Washington, D.C. metropolitan area. Customer orders come in by mail, phone, (limited) in person sale, and on-line. With the exception of limited pick-up orders from local customers, all document orders are shipped via United States Postal Service, United Parcel Service or similar carriers. Most foreign sales are handled through independent, in-country dealers who take orders from and make local distribution of products to final customers.

Marketing to NTIS customers is done primarily through direct mail, supplemented in small part by exhibits at appropriate conventions/meetings and by alerting the trade press to the availability of specific reports. Liaison with source agencies, encouraging them to place documents in the NTIS system, is done primarily through direct personal contact.

As of March 14, 1986 the NTIS staff numbered 333 employees:

Executive and policy direction	5
International affairs, including foreign acquisition and AID support	11
Product management, domestic acquisition and source agency liaison	26
Marketing, sales and customer service	43
Center for the Utilization of Federal Technology, state/local government assistance and patent licensing	13
Order processing, inventory control, warehousing and order fulfillment	88
Document (input) processing, bibliographic activities and preparation (excluding printing) of publications	54
Budget, customer accounting, financial management, administrative services and computer programming	93
Total	333

Printing and microform reproduction services are provided by a non-NTIS Department of Commerce publications unit, by the Government Printing Office and by GPO contractors. Billings to NTIS for these services in FY 1985 were $4.5 million. Personnel services and computer hardware services are provided by the Department of Commerce, with FY 1985 billings of $275,000 and $1.2 million respectively.

Except for some $500,000 in budgetary appropriations for the patent licensing program, NTIS activities are funded from revenues earned from the sale of products and services. In FY 1985, earned revenues were $21.3 million. Approximately 58% of this amount was from the sale of full text reports; 19% from bibliographic and announcement products; 14% from services provided to other agencies; 7% from software and data tapes; and 2% from patent licensing fees.

Interested parties may call or write to the Deputy Director of the National Technical Information Service, at the address or telephone number shown above, for a package of materials which provides detailed information about the agency's activities, costs, sales volume, products, and source agencies.

Privatization Alternatives

The Department of Commerce has tentatively identified a number of alternatives for privatizing NTIS operations, some of which would require legislation:

- Discontinuing NTIS operations and allowing the private sector to pursue whatever opportunities that discontinuation offers;
- Selling the entire NTIS operation to one or more private organizations;
- Selling portions of NTIS, e.g., marketing and order fulfillment, while retaining the rest as a government activity;
- Contracting with a private organization for the conduct of all or portions of the NTIS activity; or
- Establishing NTIS as a government corporation, nonprofit corporation or some other form of public or private special-purpose organization.

Interested parties are invited to discuss their views as to the advantages and disadvantages of these alternatives.

They are also invited to identify and discuss other alternatives for privatization of NTIS.

Privatization Issues

The Department of Commerce has identified a number of key issues which must be addressed in the course of evaluating these and other privatization alternatives. These issues are described below, and public comment is invited on them.

1. Federal agencies are under no obligation to place their reports in the NTIS system. This raises several issues: (a) If the Department of Commerce could not assure that Federal source agencies would continue to place their reports in a privatized system, would any private organization be willing to undertake the operation of the present NTIS? (b) If not, should any legislative change incident to the privatization of NTIS include a requirement that agencies place their reports in the system? and (c) In the absence of any such requirement, what incentives could a private organization offer to ensure that current agencies would continue to place their reports in a private system?

2. Most NTIS agreements for the acquisition of foreign technical information are developed on a government-to-government basis providing for mutual exchange. How might these arrangements be continued in a private system?

3. Resolution of issues 1 and 2 might involve an arrangement in which the acquisition of source agency reports remained a governmental activity, with all costs reimbursed by the private sector, but all other NTIS functions are performed by a private organization. Under such an arrangement, what influence would the private organization expect to have to ensure that the government operated acquisition activity is responsive to the private organization's business objectives?

4. NTIS ensures the permanent availability of all documents entering its system. Many of these documents sell in very limited numbers, literally in the single digits. Would a private organization operating the NTIS system be willing to continue this policy of permanent availability? Should it be required to do so?

5. Generally, Federal reports entering the NTIS system cannot be copyrighted. Should legislation conferring copyright protection be included in the privatization proposal?

6. NTIS source agencies often make a primary distribution before placing a report in the NTIS system. Would continuation of this practice have a substantial adverse impact on a privatized NTIS system, or render that system uneconomic?

7. If the NTIS operation was sold to the private sector, should it be sold on an exclusive basis to only a single organization, or on a non-exclusive basis to several organizations? Should the government exercise come control over prices charged for products? How?

8. The NTIS system has served as a one-stop source for the sale of much of the Federal government's scientific and technical information. If the system was sold to several private organizations, this one-stop feature of sufficient value to warrant some special arrangement to ensure its continuation? What form might this special arrangement take?

9. To what extent, if any, and in what specific ways has the existence of NTIS affected private organizations in the information industry? How has this, in turn, affected the dissemination of Federal scientific and technical information? How might these effects change as a result of privatizing the NTIS system?

10. Privatizing NTIS raises a number of other issues dealing with:

- The effect of such proposed action on matters of broad national interest, i.e., national defense, U.S. scientific and technological competitiveness, and the national economy;

- The rights of U.S. citizens to have access to the results of Federally-funded research and development; and
- The interests of the U.S. information industry, especially those firms that might wish to participate in those activities resulting from the privatization of NTIS.

Interested parties are invited to identify and discuss these and any other specific issues that should be considered in the course of evaluating alternatives for the privatization of NTIS.

Expressions of Interest

Organizations that might be interested in operating all or part of NTIS are invited to make their interest known, and to describe the terms and conditions under which they would be interested. This is an informal request for such expressions of interest. A final decision on the nature and extent of privatization for NTIS operations will be followed, if appropriate, by a formal request for proposals and/or bids.

Procedures

Requests for additional information, and comments, should be directed to Joseph Clark at the address or telephone number shown above.

Dated: April 24, 1986.

D. Bruce Merrifield,

Assistant Secretary for Productivity, Technology, and Innovation.

[FR Doc. 86-9545 Filed 4-25-86; 8:45 am]

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S.J. Res. 315/Pub. L. 99–277

Designating May 1986 as "Older Americans Month." (Apr. 23, 1986; 100 Stat. 396; 1 page) Price: $1.00

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[2] No amendments to this volume were promulgated during the period Apr. 1, 1984 to March 31, 1985. The CFR volume issued as of Apr. 1, 1984, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1985. The CFR volume issued as of July 1, 1984, should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[6] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.