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Wednesday
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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

Administrative Practice and Procedure
Interstate Commerce Commission

Authority Delegations (Government Agencies)
Interstate Commerce Commission
Justice Department

Banks, Banking
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Disability Benefits
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National Aeronautics and Space Administration

Hazardous Waste
Environmental Protection Agency

Intermodal Transportation
Interstate Commerce Commission

Loan programs—Energy
Energy Department

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Agricultural Marketing Service

Motor Vehicle Safety
National Highway Traffic Safety Administration

Pesticides and Pests
Environmental Protection Agency

Public Housing
Housing and Urban Development Department

Radio
Federal Communications Commission

Waterways
Saint Lawrence Seaway Development Corporation

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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Rules and Regulations

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

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Parts 210, 225, and 226

Meat Alternates Used in Child Nutrition Programs

AGENCY: Food and Nutrition Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends regulations governing the meal pattern requirements for the National School Lunch Program, Summer Food Service Program and Child Care Food Program to allow the use of nuts and seeds and nut and seed butters as meat alternates. Peanut butter has always been included as a meat alternate in the Child Nutrition Programs. However, despite their nutritional comparability to peanut butter and other authorized meat alternate items, nuts and seeds and other nut and seed butters are not currently recognized as making a contribution toward child nutrition meal pattern requirements. With the changing trend in food habits, participants in the Child Nutrition Programs have requested that the list of allowable meat alternates be expanded to accommodate these changes. The Department is issuing this rule in response to these requests, in an effort to establish more consistent crediting standards and to provide increased flexibility in menu planning. This final rule allows peanuts, soynuts, tree nuts such as walnuts (excluding acorns, chestnuts, and coconuts), and seeds (that are nutritionally comparable to meat or other meat alternates) to fulfill: (1) No more than one-half of the meat/meat alternate requirement for lunch/supper patterns for all Child Nutrition Programs; and (2) all of the meat/meat alternate requirement for the supplemental food (snack) patterns for the child care and summer programs. Additionally, this rule allows peanut butter and other nut and seed butters to fulfill all of the meat/meat alternate requirement for all Child Nutrition Programs.

EFFECTIVE DATE: June 6, 1986.

FOR FURTHER INFORMATION CONTACT: Alberta C. Frost, Director, Nutrition and Technical Services Division, Food and Nutrition Service, USDA, 3101 Park Center Drive, Alexandria, Virginia 22302, (703) 756–3556.

SUPPLEMENTARY INFORMATION: This rule has been reviewed under Executive Order 12291 and has been classified nonmajor because it does not meet any of the three criteria of the Executive Order. It will not have an annual effect on the economy of $100 million, will not cause a major increase in costs or prices, and will not have a significant adverse effect on competition, employment, investment, productivity, innovation or on the ability of United States based enterprises to compete with foreign based enterprises in domestic or export markets. This rule provides greater flexibility to schools and institutions participating in the Child Nutrition Programs, rather than imposing more restrictive requirements upon them. The overall types and frequency of service of foods used in the Child Nutrition programs should not be significantly affected by this rule. Nuts and seeds and nut and seed butters are currently served as "other foods" which are used to complement meal pattern requirements in the Child Nutrition Programs to meet regional and ethnic food preferences.

This rule has also been reviewed with regard to the requirements of the Regulatory Flexibility Act (5 U.S.C. 601–612). The Administrator of the Food and Nutrition Service has certified that this rule will not have a significant economic impact on a substantial number of small entities.

These programs are listed in the Catalog of Federal Domestic Assistance under Nos. 10.555, 10.558, and 10.559 and are subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (7 CFR Part 3015, Subpart V, 49 FR 22675, May 31, 1984.)

No new collection or recordkeeping requirements are included which require Office of Management and Budget (OMB) approval under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520). The programs being amended are approved by OMB under the following control numbers: National School Lunch Program, 0584–0006; Summer Food Service Program, 0584–0057; and Child Care Food Program, 0584–0055.

Background

The National School Lunch Act and Child Nutrition Act of 1966 require that the Secretary of Agriculture set minimal nutritional requirements for meals served in the Child Nutrition Programs. Meal pattern requirements have been established for specific types and amounts of food to be served in each of the programs that the Department administers. These meal patterns are designed to provide a flexible framework for foodservice managers to use in planning nutritious meals and snacks from a wide variety of foods and within a diversity of regional, cultural, and ethnic food preferences. From time to time, the Department has revised these meal patterns to reflect new knowledge about food consumption habits and the food preferences of children, as well as nutritional needs.

The meal pattern requirements for the National School Lunch Program, Summer Food Service Program, and Child Care Food Program specify amounts of various food items to be served from four basic food components. One of these is the meat/meat alternate component. In addition to meat, poultry, and fish, various meat alternates are allowed to be used to fulfull all or part of the requirement for this component. Currently approved meat alternates are cheese, cooked dry beans or peas, eggs, and peanut butter. The Department authorized specific quantities of these foods as meat alternates based on their protein and vitamin/mineral content (e.g. iron) as compared to meat and practicality of serving size. In approving these foods as meat alternates, the Department also considered the meal pattern requirement for lunch/supper that foods used to fulfill the meat/meat alternate component be served in the main dish or in the main dish and one other menu item. Consistent with this requirement, the Department limited allowable meat alternates to those foods

that were not only nutritionally comparable to meat, but were also traditionally recognized as main dish items. This recognition was based on knowledge of food consumption habits and food preferences at the time.

Food consumption habits and food preferences are influenced by many cultural, ethnic, economic, religious, and environmental factors and are constantly changing. These changes can affect how foods are used in meals. Nuts and seeds and a variety of nut and seed butters are now playing a more conventional and popular role in meals as or in main dish items. In view of these changes and the nutritional value of nuts and seeds and their butters, on December 6, 1985 (50 FR 49933), the Department issued a proposed rule to add nuts and seeds and nut and seed butters to the list of acceptable meat alternates for the Child Nutrition Programs. The proposal also solicited comments on allowing yogurt and tofu as meat alternates.

Comment Analysis

The Department provided the general public with 45 days to comment on the proposed rule. On January 21, 1986, the comment period closed. During the comment period, 181 comments were received from a variety of sources, including State educational agencies, foodservice personnel, teachers, medical and nutrition professionals, food industry associations, universities, advocacy groups, and the general public. Of the 181 comments received, 148 were in favor of and 19 were opposed to the use of nuts and seeds and nut and seed butters in the Child Nutrition Programs. Additionally, 11 comments only addressed the use of tofu and yogurt as meat alternates, and 3 commenters did not understand or did not address the issues in the proposal.

Comments in Favor

In general, commenters favoring the proposal agreed that allowing nuts and seeds and their butters as meat alternates is nutritionally sound and provides increased flexibility in menu planning to meet local preferences. Several of these commenters stated that it is time that nuts and seeds and their butters are recognized for their contribution to the diet in the Child Nutrition Programs. Many commenters also stated that nutritionally it has been impossible to defend the allowance of peanut butter as a meat alternate, when not allowing the same for peanuts and other nuts and seeds and their butters. Although favoring the proposal, 13 commenters expressed concerns about nuts being served to young children due to possible problems with choking. To prevent the problem of children choking on nuts, the Department is following recommendations cited in the *Journal of the American Medical Association*, May 4, 1984, Volume 25, No. 17, page 2231. The Department will provide information to School Food Authorities on this subject and recommend product modification. Guidance material will contain recommendations on the age to introduce whole nuts and seeds into children's diets, as well as encouraging the use of ground or chopped nuts and seeds for children under age 5. The guidance material also will include information on choking problems children have with other types of food.

Comments in Opposition

In general, commenters opposing the proposal were concerned that nuts and seeds and their butters are not nutritionally comparable to meat. Several of these commenters were concerned about the frequency of use of meat alternates and a decrease in the use of meat in the Child Nutrition Programs.

As stated in the proposed rule, the protein level of peanuts is comparable to meat, and soynuts are greater in protein value than meat. The Department also recognized in the proposal that some tree nuts and seeds and their butters do not have a protein level comparable to meat. However, with a few exceptions, all commonly available tree nuts and seeds and their butters have a protein level comparable to other currently approved meat alternates and most are comparable to or greater in iron value than meat. These exceptions include acorns, chestnuts, and coconuts which are excluded from this rule. Pecans and macadamia nuts do have a slightly lower protein value than other meat alternates. However, they are good sources of iron. Studies have shown that meeting the protein requirement of children in the Child Nutrition Programs is not a problem. However, meeting the iron requirement has been difficult. Allowing nuts and seeds and their butters as meat alternates will provide additional foods to be used which are good sources of iron. Although the meat/meat alternate component of the meal pattern supplies the major contribution of protein and iron to the diet, it is not designed to be the only component that contributes these nutrients. The requirements and recommendations of the four food components are designed to provide nutritious and well-balanced meals to each child. The nutrients of the lunch or supper, averaged over a period of time, should approximate one-third of the Recommended Dietary Allowance for children of each group. Some commenters questioned our basis for the nutritional comparison between nuts, seeds, and their butters and meat or other meat alternates. The basis used for the nutritional comparability is determined by the grams of protein and iron per one ounce of product to one ounce of cooked lean meat or equivalent serving size for other meat alternates. This comparison is consistent with the basis used for determining nutritional comparability between meat and other meat alternates.

The Department does not expect this rule to significantly affect the frequency of service of meat or the quantity of meat used in the Child Nutrition Programs. With the limitations placed on the service of nuts and seeds in this rule, it is most likely that these foods will be used in small quantities: (1) In recipes to meet local and ethnic food preferences; (2) to add variety and additional choices to menus; and (3) to increase the quantity of meat/meat alternate served to junior and senior high school students. Additionally, since the inception of the Child Nutrition Programs, peanut butter has been allowed as a meat alternate. Therefore, it is expected that other nut and seed butters allowed by this rule will be used as an alternate to peanut butter and not in place of meat.

Discussion

The following is a discussion of comments received on specific issues surrounding the service of nuts and seeds and their butters in the Child Nutrition Programs. Additionally, comments concerning the use of tofu and yogurt as meat alternates are discussed. It should be noted that a thorough understanding of the issues presented below requires reference to the December 6, 1985, proposal.

1. *Allow nuts and seeds to meet no more than one-half of the meat/meat alternate requirement for lunch/supper patterns and the full requirement for the supplemental food patterns.* A total of 134 commenters favored limiting the use of nuts and seeds to meet no more than one-half of the meat/meat alternate requirement for lunch/supper. In general, these commenters supported the Department's position which would maintain the service of a traditionally recognized entree. Several of these commenters also stated that this limitation would avoid impractical serving sizes. Only 11 commenters opposed this provision and favored allowing nuts and seeds to fulfill all of the meat/meat alternate requirement at

the option of local foodservice personnel. No commenters expressed opposition to allowing nuts and seeds to meet the full requirement for the supplemental food (snack) patterns.

The provision on the quantity of nuts and seeds allowed to meet child nutrition meal pattern requirements remains unchanged in the final rule. This supports the meal pattern requirement for lunch/supper that the meat/meat alternate component be served in the main dish or in the main dish and one other menu item.

2. *Proposal—Allow peanut butter and other nut and seed butters to fullfill no more than one-half of the meat/meat alternate requirement for the school lunch and child care lunch/supper pattern and the full requirement for the supplemental food (snack) patterns and summer lunch/supper pattern.*

Alternate Proposal—Allow peanut butter and other nut and seed butters to fulfill all of the meat/meat alternate requirement for all Child Nutrition Program meal patterns.

Comments in favor of allowing nut and seed butters to fulfill no more than one-half of the meat/meat alternate requirement for the school lunch and child care lunch/supper pattern numbered 116. In general, these commenters felt that this limitation would provide for a practical serving size and consistency with the proposal on nuts and seeds. Of the 116 commenters in favor, 18 wanted an exception to keep peanut butter at full credit as it has always been. Additionally, 12 commenters wanted the summer program to be consistent with other programs.

A total of 28 commenters favored the alternate proposal to allow nut and seed butters to fulfill the entire meat/meat alternate requirement for all Child Nutrition Program meal patterns. In general, the commenters supported full credit because maintaining the current requirement for peanut butter would minimize confusion. They stated that it would be less confusing to allow full credit for nut and seed butters for all meal patterns than to try to monitor exceptions. Many also felt that limiting peanut butter to one-half credit would make it difficult for foodservice personnel to plan acceptable menus using this food.

More than 30 percent of the comments in favor of nut and seed butters in the Child Nutrition Programs addressed specific concerns about crediting. These comments favored consistency in all programs and/or consistency with the current policy that allows peanut butter to fulfill the entire meat/meat alternate requirement.

In view of the 18 commenters who favored keeping peanut butter at full credit, the 12 commenters who favored consistency of the summer program with other programs and the 28 commenters who favored the alternate proposal, the Department feels that adopting the alternate proposal (nut and seed butters at full credit) is warranted. Since other nut and seed butters are nutritionally equivalent to peanut butter, there is no basis to differentiate peanut butter from other nut and seed butters. Furthermore, nut and seed butters are expected to be used in limited amounts, as peanut butter has been, mainly in the summer program and when off-site bag lunches are served. The Department feels that the alternate proposal will ease the understanding of crediting issues by having consistency in crediting nut and seed butters in all programs. Therefore, the final rule allows nut and seed butters to fulfill all of the meat/meat alternate requirement for all child nutrition meal pattern requirements.

3. *Comments on allowing tofu and yogurt as meat alternates in the Child Nutrition Programs.* Of the total comments received, 58 percent addressed tofu and 56 percent addressed yogurt being allowed as a meat alternate. Most of the commenters stated that they either favored or opposed these issues. The comments did not provide any new nutritional research data on tofu and yogurt nor any sanitation information regarding the control of bacteria in tofu. The Department will continue to study these issues and would like to express its appreciation to those commenters who took time to respond.

Breakfast Program

This final rule does not amend the meal pattern requirements for the School Breakfast Program (7 CFR Part 220) and the summer and child care breakfast programs because the service of meat/meat alternates is a recommendation and not a requirement for these programs. However, nuts and seeds and nut and seed buttters as defined in this rule, may also be used as meat alternates in the breakfast programs.

Final Rule

In response to all comments received on the proposed rule, only one substantive revision has been made in the final rule as referenced under specific issues for nut and seed butters. This revision allows nut and seed butters to fulfill the entire meat/meat alternate requirement for all Child Nutrition Programs. Additionaiiy, minor revisions have been made to provide clarity. Footnotes presented in the proposed rule have been rearranged and incorporated into regulatory text as appropriate, and the meal pattern charts appear in their entirety.

List of Subjects

7 CFR Part 210

Food assistance programs, National School Lunch Program, Commodity School Program, Grant programs—social programs, Nutrition, Children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 225

Food assistance program, Grant programs—health, Infant and children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

7 CFR Part 226

Daycare, Food assistance programs, Grant programs—health, Infants and children, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, Parts 210, 225, and 226 are amended as follows:

PART 210—NATIONAL SCHOOL LUNCH PROGRAM

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

Authority: Secs. 2–12, 60 Stat. 230, as amended; sec. 10, 80 Stat. 889, as amended; 84 Stat. 270; 42 U.S.C. 1751–1760, 1779, unless otherwise noted.

2. In § 210.10:

a. Paragraph (a)(2)(ii)(A) is redesignated as paragraph (a)(2)(ii)(A)(*1*) and a new paragraph (a)(2)(ii)(A)(*2*) is added;

b. The School Lunch Pattern table is revised.

The revisions and additions read as follows:

§ 210.10 Requirements for lunches.

(a) * * *

(2) * * *

(ii) (A) * * *

(2) Nuts and seeds and their butters listed in program guidance are nutritionally comparable to meat or other meat alternates based on available nutritional data. Acorns, chestnuts, and coconuts shall *not* be used as meat alternates due to their low protein content. Nut and seed meals or flours shall *not* be used as a meat alternate except and defined in this part under Appendix A: Alternate Foods for

Meals. As noted in the School Lunch Pattern table of this section, nuts or seeds may be used to meet no more than one-half of the meat/meat alternate requirement. Therefore, nuts and seeds must be combined with another meat/meat alternate to fulfill the requirement.

* * * * *

SCHOOL LUNCH PATTERN—PER LUNCH MINIMUMS

Components		Minimum quantities				Recommended quantities, group V, 12 years and older (7–12 [2])
		Group I, age 1–2 (preschool)	Group II, age 3–4 (preschool)	Group III, age 5–8 (K–3)	Group IV, age 9 and older (4–12)	
Milk	Unflavored, fluid lowfat, skin, or buttermilk must be offered [1].	¾ cup (6 fl. oz.)	¾ cup (6 fl. oz.)	½ pint (8 fl.oz.)	½ pint (8 fl.oz.)	½ pint (8 fl.oz.)
Meat or meat alternate (quantity of the edible portion as served).	Lean meat, poultry, or fish	1 oz	1½ oz	1½ oz	2 oz	3 oz
	Cheese	1 oz	1½ oz	1½ oz	2 oz	3 oz
	Large egg	½	¾	¾	1	1½
	Cooked dry beans or peas	¼ cup	⅜ cup	⅜ cup	½ cup	¾ cup
	Peanut butter or soynut butter or other nut or seed butters.	2 Tbsp	3 Tbsp	3 Tbsp	4 Tbsp	6 Tbsp
	Peanuts or soynuts of tree nuts or seeds [3] or an equivalent quantity of any combination of the above meat/meat alternates.	½ oz. [4] = 50%	¾ oz. [4] = 50%	¾ oz [4] = 50%	1 oz. [4] = 50%	1½ oz. [4] = 50%
Vegetable or fruit	2 or more servings of vegetable or fruit or both	½ cup	½ cup	½ cup	¾ cup	¾ cup
Bread or bread alternate (servings per week).	Must be enriched or whole-grain. At least ½ serving [5] for group 1 or one serving [5] for groups II—V must be served daily.	5	8	8	8	10

[1] If a school serves another form of milk (whole or flavored), it must offer its children unflavored fluid lowfat milk, skim milk, or buttermilk as a beverage choice.
[2] The *minimum* portion sizes for these children are the portion sizes for group IV.
[3] Free nuts and seeds that may be used as meat alternates are listed in program guidance.
[4] No more than 50% of the requirements shall be met with nuts or seeds. Nuts or seeds *shall* be combined with another meat/meat alternate to fulfill the requirement. For purposes of determining combinations, 1 oz. of nuts or seeds is equal to 1 oz. of cooked lean meat, poultry or fish.
[5] Serving 1 slice of bread; or ½ cup of cooked rice, macaroni, noodles, other pasta products, other cereal product such as bulgar or corn grits; or as stated in the *Food Buying Guide for Child Nutrition Programs* (PA 1331) for biscuits, rolls, muffins, and similar products.

* * * * *

PART 225—SUMMER FOOD SERVICE PROGRAM

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

Authority: Secs. 803, 807, 809, 816, and 817, Pub. L. 97–35, secs. 203 and 206, Pub. L. 96–499, secs. 5, 7, 10, Pub. L. 95–627, 95 Stat. 3603 (42 U.S.C. 1771); sec. 2, Pub. L. 95–166, 91 Stat. 1325 (42 U.S.C. 1761); Sec. 7, Pub. L. 91–248, 84 Stat. 211 (42 U.S.C. 1859a), unless otherwise noted.

§ 225.20 [Amended]

2. In § 225.20:

a. Paragraph (b)(2), lunch or supper meal pattern, and paragraph (b)(3), supplemental food pattern, are revised;

b. Paragraph (c) is amended by adding a new paragraph (5).

The revisions and additions read as follows:

§ 225.20 Meal Service Requirements.

* * * * *

(b) * * *

Lunch or Supper

(2) The minimum amounts of food components to be served as lunch or supper are as follows:

Food components	Minimum amount
Meat and Meat Alternates	
Lean meat or poultry or fish	2 oz.
or	
Cheese	2 oz.
or	
Eggs	1 large egg.
or	
Cooked dry beans or peas	½ [1] cup.
or	
Peanut butter or soynut butter or other nut or seed butters.	4 tbsp.
or	
Peanuts or soynuts or tree nuts or seeds [2]	1 oz. [3] = 50%.
or	
An equivalent quantity of any combination of the above meat/meat alternates	
Vegetables and Fruits	
Vegetable(s) and/or fruit(s) [4]	¾ cup total.
Bread and Bread Alternates [5]	
Bread	1 slice.
or	
Cornbread, biscuits, rolls, muffins, etc.	1 serving [6]
or	
Cooked pasta or noodle products	½ cup.
or	
Cooked cereal grains of an equivalent quantity of any combination of bread/bread alternate.	½ cup.
Milk	
Milk, fluid, served as a beverage	1 cup (½ pint, 8 fl. oz.).

[1] For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.
[2] Tree nuts and seeds that may be used as meat alternates are listed in program guidance.
[3] No more than 50% of the requirement shall be met with nuts or seeds. Nuts or seeds *shall* be combined with another meat/meat alternate to fulfill the requirement. For purposes of determining combinations, 1 oz. of nuts or seeds is equal to 1 oz. of cooked lean meat, poultry or fish.
[4] Serve 2 of more kinds of vegetable(s) and/or fruit(s) or a combination of both. Full-strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.
[5] Bread, pasta or noodle products, and cereal grains (such as rice, bulgur, or corn grits) shall be whole-grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour; cereal shall be whole-grain or enriched or fortified.
[6] Serving sizes and equivalents will be in guidance materials to be distributed by FNS to State agencies.

Supplemental Food

(3) The minimum amounts of food components to be served as supplemental food are as follows: Select two of the following four components. (Juice may not be served when milk is served as the only other component.)

Food components	Minimum amount
Meat and Meat Alternates	
Lean meat or poultry or fish	1 oz.
or	
Cheese	1 oz.
or	
Eggs	1 large egg.
or	
Cooked dry beans or peas	1/2 [1] cup.
or	
Peanut butter or soynut butter or other nut or seed butters.	2 tbsp.
or	
Peanuts or soynuts or tree nuts or seeds [2]	1 oz.
or	
An equivalent quantity of any combination of the above meat/meat alternates.	
Vegetables and Fruits	
Vegetable(s) and/or fruit(s)	3/4 cup.
or	
Full-strength vegetable or fruit juice or an equivalent quantity of any combination of vegetable(s), fruit(s), and juice.	3/4 cup (6 fl. oz.)

Food components	Minimum amount
Bread and Bread Alternates [3]	
Bread	1 slice.
or	
Cornbread, biscuits, rolls, muffins, etc [4]	1 serving.
or	
Cold dry cereal [5]	3/4 cup or 1 oz.
or	
Cooked cereal	1/2 cup.
or	
Cooked pasta or noodle products	1/2 cup.
or	
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate.	1/2 cup.
Milk [6]	
Milk, fluid	1 cup (1/2 pint, 8 fl. oz.).

[1] For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.
[2] Tree nuts and seeds that may be used as meat alternates are listed in program guidance.
[3] Bread, pasta or noodle products, and cereal grains (such as rice, bulgur, or corn grits shall be whole-grain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour, cereal shall be whole-grain or enriched or fortified.
[4] Serving sizes and equivalents will be in guidance materials to be distributed by FNS to State agencies.
[5] Either volume (cup) or weight (oz.), whichever is less.
[6] Milk should be served as a beverage or on cereal, or used in part for each purpose.

(c) * * *

(5) Nuts and seeds and their butters listed in program guidance are nutritionally comparable to meat or other meat alternates based on available nutritional data. Acorns, chestnuts, and coconuts shall *not* be used as meat alternates due to their low protein content. Nut and seed, meals or flours shall *not* be used as a meat alternate except as defined in this section under paragraph (c)(3) and in this part under Appendix A: Alternate Foods for Meals. As noted in paragraph (b)(2) of this section, nuts or seeds may be used to meet no more than one-half of the meat/meat alternate requirement for lunch or supper. Therefore, nuts or seeds must be combined with another meat/meat alternate to fulfill the requirement. For the supplemental food pattern, nuts or seeds may be used to fulfill all of the meat/meat alternate requirement.

* * * * *

PART 226—CHILD CARE FOOD PROGRAM

1. The authority citation for Part 226 continues to read as follows:

Authority: Secs. 803,810, and 820, Pub. L. 97–35, 95 Stat. 521–535 (42 U.S.C. 1758, 1766); sec. 2, Pub. L. 95–627, 92 Stat. 3603 (42 U.S.C. 1766); sec. 10, Pub. L. 89–642, 80 Stat. 889 (42 U.S.C. 1779), unless otherwise noted.

2. In § 226.20:

a. Paragraph (a)(2)(ii) is redesignated as paragraph (a)(2)(ii)(A) and a new paragraph (a)(2)(ii)(B) is added;

b. Paragraph (a)(3)(ii) is revised;

c. Paragraph (c)(2), lunch or supper pattern, and paragraph (c)(3), supplemental food pattern, are revised.

The revisions and additions read as follows:

§ 226.20 Requirements for Meals.

(a) * * *

(2) * * *

(ii) * * *

(B) Nuts and seeds and their butters listed in program guidance are nutritionally comparable to meet or other meat alternates based on available nutritional data. Acorns, chestnuts, and coconuts shall *not* be used as meat alternates due to their low protein content. Nut or seed meals or flours may be used as an ingredient in a bread/bread alternate, but shall *not* be used as a meat alternate except as defined in this part under Appendix A: Alternate Foods for Meals, and in program guidance materials. As noted in paragraph (c)(2) of this section, nuts or seeds may be used to meet no more than one-half of the meat/meat alternate requirements. Therefore, nuts or seeds must be combined with another meat/meat alternateto fulfill the requirement;

* * * * *

(3) * * *

(ii) A serving of meat or meat alternate. Nuts and seeds and their butters listed in program guidance are nutritionally comparable to meat or other meat alternates based on available nutritional data. Acorns, chestnuts, and coconuts are excluded and shall *not* be used as meat alternates due to their low protein content. Nut or seed meals or flours shall *not* be used as a meat alternate except as defined in this part under Appendix A: Alternate Foods for Meals;

* * * * *

(c) * * *

Lunch or Supper

(2) The minimum amounts of food components to be served as lunch or supper as set forth in paragraph (a)(2) of this section are as follows:

Food components	Age 1 up to 3	Age 3 up to 6	Age 6 up to 12[1]
Milk			
Milk, fluid	½ cup[2]	¾ cup	1 cup.
Vegetables and Fruits[3]			
Vegetable(s) and/or fruit(s)	¼ cup total	½ cup total	¾ cup total.
Bread and Bread Alternates[4]			
Bread	½ slice	½ slice	1 slice.
or			
Cornbread, biscuits, rolls muffins, etc.[5]	½ serving	½ serving	1 serving.
or			
Cooked paste or noodle products	¼ cup	¼ cup	½ cup.
or			
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate.			
Meat and Meat Alternates			
Lean meat or poultry or fish[6]	1 oz	1 ½ oz	2 oz.
or			
Cheese	1 oz	1 ½ oz	2 oz.
or			
Eggs	1 egg	1 egg	1 egg.
or			
Cooked dry beans or peas	¼ cup	⅜ cup	½ cup.
or			
Peanut butter or soynut butter or other nut or seed butters	2 tbsp	3 tbsp	4 tbsp.
or			
Peanuts or soynuts or tree nuts or seeds[7]	½ oz[8] = 50%	¾ oz[8] = 50%	1 oz[8] = 50%.
or			
An equivalent quantity of any combination of the above meat/meat alternates.			

[1] Children age 12 and up may be served adult size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section for children age 6 up to 12.
[2] For purposes of the requirements outlined in this subsection, a cup means a standard measuring cup.

[3] Serve 2 or more kinds of vegetable(s) and/or fruit(s). Full-strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.
[4] Bread, pasta or noodle products, and cereal grains shall be wholegrain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour.
[5] Serving sizes equivalents to be published in guidance materials by FNS.
[6] Edible portion as served.
[7] Tree nuts and seeds that may be used as meat alternates are listed in program guidance.
[8] No more than 50% of the requirement shall be met with nuts or seeds. Nuts or seeds *shall* be combined with another meat/meat alternate to fulfill the requirement. For purpose of determining combinations, 1 oz. of nuts or seeds is equal to 1 oz. of cooked lean meat, poultry or fish.

Supplemental Food

(3) The minimum amounts of food components to be served as supplemental food as set forth in paragraph (a)(3) of this section are as follows. Select two of the following four components. (Juice may not be served when milk is served as the only other component.)

Food components	Age 1 up to 3	Age 3 up to 6	Age 6 up to 12
Milk			
Milk, fluid	½ cup [2]	½ cup	1 cup.
Vegetables and Fruits			
Vegetable(s) and/or fruit(s)	½ cup	½ cup	¾ cup.
or			
Full-strength vegetable or fruit juice or an equivalent quantity of any combination of vegetable(s), fruit(s) and juice.	½ cup	½ cup	¾ cup
Bread and Bread Alternates [3]			
Bread	½ slice	½ slice	1 slice.
or			
Cornbread, biscuits, rolls, muffins, etc [4]	½ serving	½ serving	1 serving.
or			
Cold dry cereal [5]	¼ cup or ⅓ oz	⅓ cup or ½ oz	¾ cup or 1 oz.
or			
Cooked cereal	¼ cup	¼ cup	½ cup.
or			
Cooked pasta or noodle products	¼ cup	¼ cup	½ cup.
or			
Cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate	¼ cup	¼ cup	½ cup.
Meat and Meat Alternates			
Lean meat or poultry or fish [6]	½ oz	½ oz	1 oz.
or			
Cheese	½ oz	½ oz	1 oz.
or			
Eggs	½ egg	½ egg	1 egg.
or			
Cooked dry beans or peas	⅛ cup	⅛ cup	¼ cup.
or			
Peanut butter or soynut butter or other nut or seed butters	1 tbsp	1 tbsp	2 tbsp.
or			
Peanuts or soynuts or tree nuts or seeds [7]	½ oz	½ oz	1 oz.
or			
An equivalent quantity of any combination of the above meat/meat alternates.			

[1] Children age 12 and up may be served adult size portions based on the greater food needs of older boys and girls, but shall be served not less than the minimum quantities specified in this section for children age 6 up to 12.
[2] For purposes of the requirements outlined in this paragraph, a cup means a standard measuring cup.
[3] Bread, pasta or noodle products, and cereal grains shall be wholegrain or enriched; cornbread, biscuits, rolls, muffins, etc., shall be made with wholegrain or enriched meal or flour; cereal shall be wholegrain or enriched or fortified.
[4] Serving size and equivalents to be published in guidance materials by FNS.
[5] Either volume (cup) or weight (oz.), whichever is less.
[6] Edible portion as served.
[7] Tree nuts and seeds that may be used as meat alternates are listed in program guidance.

(42 U.S.C. 1758, 1761, 1766)

Dated: May 1, 1986.

John W. Bode,

Assistant Secretary for Food and Consumer Services.

[FR Doc. 86-10225 Filed 5-6-86; 8:45 am]

BILLING CODE 3410-30-M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 918

[Georgia Peach Regulation 3; Amendment 3]

Fresh Peaches Grown in Georgia; Change in Quality Requirements for 1986 and Subsequent Seasons

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule and opportunity to file comments.

SUMMARY: This interim final rule adds a tolerance for decay to the maturity, size, and inspection requirements currently in effect for Georgia peaches to assure that only good quality peaches will be available for fresh market shipment. The action recognizes the expected composition of the 1986 crop, the current and prospective marketing conditions for Georgia peaches, and is in the interest of producers and consumers.

DATES: Interim final rule effective May 1, 1986. Comments which are received by June 6, 1986 will be considered prior to issuance of the final rule.

ADDRESS: Comments should be sent to: Docket Clerk, F&V, AMS, Room 2085-S, U.S. Department of Agriculture, Washington, DC 20250. Two copies of all written material shall be submitted, and they will be made available for public inspection at the office of the Docket Clerk during regular business hours.

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 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 action 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 35 handlers of Georgia peaches under the marketing order for fresh peaches grown in Georgia will be subject to regulation during the course of the current season and that the majority of this group may be classified as small entites. While regulations issued under this order impose some costs on affected handlers and the number of such persons may be substantial, the added burden on small entities, if present at all, is not significant.

This interim final rule is issued under the marketing agreement and Order No. 918, both as amended (7 CFR Part 918), regulating the handling of peaches grown in Georgia. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674). This action is based on a recommendation and information submitted by the Georgia Peach Industry Committee. That committee, established under the marketing agreement and order, works with the Department in administering the program.

Shipments of Georgia peaches, except peaches in bulk to adjacent markets (The States of Florida, Alabama, Tennessee, North Carolina, South Carolina, Mississippi, and the portion of Louisiana which is east of the Mississippi River) currently are required to be mature as provided in § 918.400, and not be smaller than 1⅝ inches in diameter, except that not more than 10 percent, by count, of such peaches in any lot, and not more than 15 percent, by count, of such peaches in any container in such lot may be smaller than 1⅝ inches in diameter. All such peaches must be inspected and certified as meeting these requirements prior to shipment.

In making its recommendation, the Committee considered supply and market conditions and other factors affecting the need for and type of regulations suitable for the 1986 Georgia peach crop. On the basis of these considerations, the committee recommended continuation of the currently prescribed maturity, size, and inspection requirements and the establishment of a one-percent tolerance for decay.

This season, decay is expected to be unsually severe, and the overall quality of the crop is expected to be lower because of adverse weather conditions during the growing season. Hence, this action will assure that only good quality peaches will be available for fresh market shipment. Such shipments are expected to begin about May 1. The recommended requirements are not expected to eliminate any appreciable quantity of fresh peaches from commercial channels other than low quality fruit.

The 1986 regulations are designed to assure the shipment of suitable quality peaches consistent with the expected composition of the crop, the expected supply, and current and prospective demand conditions. They are expected to maximize benefits to producers and consumers by preventing the shipment of undesirable peaches.

The Georgia peach production area is one of the first each season to market an appreciable amount of fresh peaches. During the early weeks of the season there is tendency to ship immature and smaller size fruit. Also, last season some problems with decay surfaced during the shipping season. Shipment of such fruit early in the season tends to adversely affect consumer demand, with resultant depressing effects on grower returns.

The 1986 crop of Georgia peaches is expected to total 2,000 equivalent trailer loads (based on 788 bushels per load) as compared to 1,433 equivalent trailer loads in 1985. Shipments of Georgia peaches compete with peach shipments from adjoining states. The recommended requirements for shipments of Georgia peaches are necessary to provide consumers with suitable quality peaches and promote orderly marketing of shipments from the 1986 crop. The committee unanimously adopted and has submitted to the Secretary a marketing policy for the 1986 season Georgia peach crop including an analysis of supply, demand, and other factors having a bearing on the marketing of the crop.

The regulation currently in effect (Peach Regulation 3, Amendment 2), was issued May 1, 1985 (50 FR 19321), on a continuing basis subject to modification, suspension, or termination upon recommendation by the committee and approval by the Secretary. The regulations for Georgia peaches established by this action, if finalized after the comment period, will continue to be in effect from marketing season to marketing season indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the committee or other information available to the Secretary. The issuance of seasonal regulations which continue in effect from marketing season to marketing season reflect the fact that such regulations change infrequently from season to season and it is believed unnecessary to issue them for only a single season. In addition, this action could result in a reduction in operational costs to the committee and the government.

Although the seasonal regulations will be effective for an indefinite period, the committee will continue to meet prior to and during each season to consider recommendations for modification, suspension, or termination of the regulatory requirements for Georgia peaches. Prior to making any such recommendations, the committee would submit 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 will review committee recommendations and information submitted by the committee, and other available information, and determine whether modification, suspension, or termination of the regulatory requirements would tend to effectuate the declared policy of the Act.

After consideration of all relevant matter presented, the information and recommendation submitted by the committee, and other available information, it is found that Peach Regulation 3, Amendment 3, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking, and postpone the effective date until 30 days

after publication in the Federal Register (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this interim final rule is based and the effective date necessary to effectuate the declared purposes of the Act. The harvest and shipment of 1986 Georgia peaches is expected to begin soon. Hence, this action must be effective promptly to minimize any inequity among producers or handlers due to different requirements for different parts of the 1986 shipping season. This change in the administrative rules and regulations was recommended by unanimous vote of the committee at an open meeting held April 3, 1986. Information regarding this anticipated action has been disseminated among growers and handlers of peaches in the production area and they have been preparing to conduct their operations in light thereof. Hence, they do not require additional time or notice for preparation. However, because of the future effect of this action, it is appropriate to request comments on the action before finalizing it.

List of Subjects in 7 CFR Part 918

Marketing agreements and orders, Peaches, Georgia.

1. The authority citation for 7 CFR Part 918 continues to read as follows:

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

2. Section 918.325 is revised to read as follows:

§ 918.325 Peach Regulation 3, Amendment 3.

On and after (May 1, 1986) no handler shall ship peaches unless such peaches are mature as provided in § 918.400, contain no more than one percent decay, and are not smaller than 1⅝ inches in diameter, except that not more than 10 percent, by count, of such peaches in any lot, and not more than 15 percent, by count, of such peaches in any container in such lot, may be smaller than 1⅝ inches in diameter: *Provided*, That peaches shipped to adjacent markets in bulk are exempt from such maturity, decay, and size requirements, and the inspection requirements in § 918.64 shall not apply.

Dated: May 1, 1986.

Thomas R. Clark,

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

[FR Doc. 86–10186 Filed 5–6–86; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 75

[Airspace Docket No. 85-AWA-48]

Realignment and Revocation of Jet Routes

Correction

In FR Doc. 86–9013, beginning on page 15310, in the issue of Wednesday, April 23, 1986, make the following correction:

On page 15311, first column, under "J–50 [Amended]", fourth line, "CA" should be removed.

BILLING CODE 1505-01-M

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14 CFR Part 95

[Docket No. 24977; Amdt. No. 330]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rule) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. These regulatory actions are needed because of changes occurring in the National Airspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

EFFECTIVE DATE: May 8, 1986.

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

SUPPLEMENTARY INFORMATION: This amendment to Part 95 of the Federal Aviation Regulations (14 CFR Part 95) prescribes new, amended, suspended, or revoked IFR altitudes governing the operation of all aircraft in IFR flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in Part 95. The specified IFR altitudes, when used in conjunction with the prescribed changeover points for those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference.

The reasons and circumstances which create the need for this amendment involve matters of flight safety, operational efficiency in the National Airspace System, and are related to published aeronautical charts that are essential to the user and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment is unnecessary, impracticable, and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a "major rule" under Executive Order 12291; (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3)

does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Aircraft, Airspace.

Issued in Washington, DC, on May 2, 1986.

John S. Kern,

Director of Flight Standards.

Adoption of the Amendment

Accordingly and pursuant to the authority delegated to me by the Administrator, Part 95 of the Federal Aviation Regulations (14 CFR Part 95) is amended as follows effective at 0901 G.M.T.:

1. The authority citation for Part 95 continues to read as follows:

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

2. Part 95 is amended to read as follows:

BILLING CODE 4910-13-M

REVISIONS TO MINIMUM ENROUTE IFR ALTITUDES & CHANGEOVER POINTS

AMENDMENT 330 EFFECTIVE DATE, MAY 08, 1986

FROM	TO	MEA
§95.6001 VOR FEDERAL AIRWAY 1		
IS AMENDED TO READ IN PART		
CHARLESTON, SC VORTAC	*INLET, SC FIX	2000
*3000 - MRA		
INLET, SC FIX	*PLANN, SC FIX	2000
*2500 - MRA		
§95.6005 VOR FEDERAL AIRWAY 5		
IS AMENDED TO DELETE		
WIREGRASS, AL VORTAC	ALBANY, GA VORTAC	*2500
*1800 - MOCA		
§95.6007 VOR FEDERAL AIRWAY 7		
IS AMENDED TO READ IN PART		
GRAHAM, TN VORTAC	VALER, TN FIX	3000
§95.6010 VOR FEDERAL AIRWAY 10		
IS AMENDED TO READ IN PART		
ADEER, KS FIX	GARDEN CITY, KS VORTAC	*5000
*4400 - MOCA		
DODGE CITY, KS VORTAC	*STAFF, KS FIX	4300
*4200 - MRA		
§95.6017 VOR FEDERAL AIRWAY 17		
IS AMENDED TO READ IN PART		
LAREDO, TX VORTAC	*KAHAN, TX FIX	2400
*5000 - MRA		

FROM	TO	MEA
§95.6017 VOR FEDERAL AIRWAY 17—Continued		
KAHAN, TX FIX	COTULLA, TX VORTAC	2400
AUSTIN, TX VORTAC	BELTO, TX FIX	2500
§95.6035 VOR FEDERAL AIRWAY 35		
IS AMENDED TO READ IN PART		
DEEDS, FL FIX	FORT MYERS, FL VORTAC	2000
FORT MYERS, FL VORTAC	MURDO, FL FIX	2000
MURDO, FL FIX	SAINT PETERSBURG, FL VORTAC	2100
§95.6045 VOR FEDERAL AIRWAY 45		
IS AMENDED BY ADDING		
HENDERSON, WV VORTAC	APPLETON, OH VORTAC	3000
YOUNGSTOWN, OH VORTAC	DROVE, OH FIX	3000
DROVE, OH FIX	VARYS, OH FIX	3500
IS AMENDED TO READ IN PART		
KINSTON, NC VORTAC	WENDI, NC FIX	2000
KIMES, NC FIX	GREENSBORO, NC VORTAC	2800
§95.6056 VOR FEDERAL AIRWAY 56		
IS AMENDED TO READ IN PART		
FLORENCE, SC VORTAC	FAYETTEVILLE, NC VOR/DME	2200
§95.6060 VOR FEDERAL AIRWAY 60		
IS AMENDED TO READ IN PART		
GALLUP, NM VORTAC	CROIN, NM FIX	11000
CROIN, NM FIX	*CUBBA, NM FIX	11200
*10000 - MCA CUBBA FIX, W BND		
§95.6069 VOR FEDERAL AIRWAY 69		
IS AMENDED TO DELETE		
SHREVEPORT, LA VORTAC	*COTTA, LA FIX	
VIA W ALTER	VIA W ALTER	2000
*3000 - MRA		
COTTA, LA FIX	*FOSTE, LA FIX	
VIA W ALTER	VIA W ALTER	2000
*3500 - MRA		
FOSTE, LA FIX	EL DORADO, AR VORTAC	
VIA W ALTER	VIA W ALTER	2000

FROM	TO	MEA
§95.6095 VOR FEDERAL AIRWAY 95		
IS AMENDED TO READ IN PART		
FARMINGTON, NM VORTAC	*DURANGO, CO VOR/DME	9700
*13200 - MCA DURANGO VOR/DME, N BND		
§95.6136 VOR FEDERAL AIRWAY 136		
IS AMENDED TO READ IN PART		
RALEIGH-DURHAM, NC VORTAC	LANHO, NC FIX	3000
§95.6144 VOR FEDERAL AIRWAY 144		
IS AMENDED TO READ IN PART		
FORT WAYNE, IN VORTAC	APPLETON, OH VORTAC	*6000
*3000 - MOCA		
IS AMENDED TO DELETE		
FINDLAY, OH VORTAC	APPLETON, OH VORTAC	3000
§95.6152 VOR FEDERAL AIRWAY 152		
IS AMENDED TO READ IN PART		
SAINT PETERSBURG, FL VORTAC	JENSN, FL FIX	2500
§95.6189 VOR FEDERAL AIRWAY 189		
IS AMENDED TO READ IN PART		
TAR RIVER, NC VORTAC	WRIGHT BROTHERS, NC VOR/DME	*4000
*2100 - MOCA		
§95.6213 VOR FEDERAL AIRWAY 213		
IS AMENDED TO READ IN PART		
ESTER, NC FIX	TAR RIVER, NC VORTAC	2100
§95.6305 VOR FEDERAL AIRWAY 305		
IS AMENDED BY ADDING		
SHREVEPORT, LA VORTAC	*COTTA, LA FIX	2000
*3000 - MRA		
COTTA, LA FIX	*FOSTE, LA FIX	2000
*3500 - MRA		
§95.6404 HAWAII VOR FEDERAL AIRWAY 4		
IS AMENDED TO READ IN PART		
BINJO, HI FIX	ZUKEY, HI FIX W BND	29000

FROM	TO	MEA
§95.6305 VOR FEDERAL AIRWAY 305—Continued		
FOSTE, LA FIX	EL DORADO, AR VORTAC	2000
§95.6310 VOR FEDERAL AIRWAY 310		
IS AMENDED TO READ IN PART		
GREENSBORO, NC VORTAC	KIMES, NC FIX	2800
§95.6344 VOR FEDERAL AIRWAY 344		
IS AMENDED TO READ IN PART		
ABERDEEN, SD VORTAC	FARGO, ND VORTAC	*3900
*3000 - MOCA		
§95.6409 VOR FEDERAL AIRWAY 409		
IS AMENDED TO READ IN PART		
LOCAS, NC FIX	RALEIGH-DURHAM, NC VORTAC	#*6000
*2200 - MOCA		
#MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE.		
§95.6421 VOR FEDERAL AIRWAY 421		
IS AMENDED TO READ IN PART		
FARMINGTON, NM VORTAC	*DURANGO, CO VOR/DME	9700
*13200 - MCA DURANGO VOR/DME, N BND		
§95.6430 VOR FEDERAL AIRWAY 430		
IS AMENDED TO READ IN PART		
HAVRE, MT VOR/DME	GLASGOW, MT VOR/DME	5500
GLASGOW, MT VOR/DME	WILLISTON, ND VORTAC	*6000
*4600 - MOCA		
§95.6441 VOR FEDERAL AIRWAY 441		
IS AMENDED TO READ IN PART		
HOMOE, FL FIX	OCALA, FL VORTAC	*3000
*2400 - MOCA		
§95.6454 VOR FEDERAL AIRWAY 454		
IS AMENDED TO READ IN PART		
LIBERTY, NC VORTAC	LAWRENCEVILLE, VA VORTAC	*6000
*2800 - MOCA		
§95.6404 HAWAII VOR FEDERAL AIRWAY 4—Continued		
E BND		16000

FROM	TO	MEA	MAA
§95.7079 JET ROUTE NO. 79			
	IS AMENDED TO READ IN PART		
CHARLESTON, SC VORTAC	TAR RIVER, NC VORTAC	18000	45000
TAR RIVER, NC VORTAC	FRANKLIN, VA VORTAC	18000	45000
FRANKLIN, VA VORTAC	SALISBURY, MD VORTAC	18000	45000
SALISBURY, MD VORTAC	SEA ISLE, NJ VORTAC	18000	45000
SEA ISLE, NJ VORTAC	KENNEDY, NY VORTAC	18000	45000
§95.7193 JET ROUTE NO. 193			
	IS ADDED TO READ		
WILMINGTON, NC VORTAC	FRANKLIN, VA VORTAC	18000	45000
§95.7208 JET ROUTE NO. 208			
	IS ADDED TO READ		
ATHENS, GA VORTAC	LIBERTY, NC VORTAC	18000	45000
LIBERTY, NC VORTAC	HOPEWELL, VA VORTAC	18000	45000
§95.7209 JET ROUTE NO. 209			
	IS ADDED TO READ		
GREENWOOD, SC VORTAC	TAR RIVER, NC VORTAC	#18000	45000
#MEA IS ESTABLISHED WITH A GAP IN NAVIGATION SIGNAL COVERAGE.			
TAR RIVER, NC VORTAC	NORFOLK, VA VORTAC	18000	45000
§95.7210 JET ROUTE NO. 210			
	IS ADDED TO READ		
DUNKN, GA FIX	VANCE, SC VORTAC	18000	45000
VANCE, SC VORTAC	WILMINGTON, NC VORTAC	18000	45000

[FR Doc. 86-10143 Filed 5-6-86; 8:45 am]
BILLING CODE 4910-13-C

§95.8003 VOR FEDERAL AIRWAYS CHANGEOVER POINTS

AIRWAY SEGMENT FROM	AIRWAY SEGMENT TO	CHANGEOVER POINTS DISTANCE	CHANGEOVER POINTS FROM
V-189			
IS AMENDED BY ADDING			
TAR RIVER, NC VORTAC	WRIGHT BROTHERS, NC VOR/DME	58	TAR RIVER

§95.8005 JET ROUTES CHANGEOVER POINTS

AIRWAY SEGMENT FROM	AIRWAY SEGMENT TO	CHANGEOVER POINTS DISTANCE	CHANGEOVER POINTS FROM
J-60			
IS AMENDED BY ADDING			
HANKSVILLE, UT VORTAC	RED TABLE, CO VOR/DME	75	HANKSVILLE
J-79			
IS AMENDED BY ADDING			
FRANKLIN, VA VORTAC	SALISBURY, MD VORTAC	20	FRANKLIN
J-209			
IS AMENDED BY ADDING			
GREENWOOD, SC VORTAC	TAR RIVER, NC VORTAC	127	GREENWOOD

DEPARTMENT OF COMMERCE

International Trade Administration

15 CFR Part 399

[Docket No. 60353-6053]

Amendment to the Commodity Control List; GLV Dollar Value Limit

AGENCY: Export Administration, International Trade Administration, Commerce.

ACTION: Final rule.

SUMMARY: The Office of Export Administration published (49 FR 50608–50631, December 31, 1984) a final rule amending the Commodity Control List (CCL). That rule established a new classification category, ECCN 1567A, for certain stored program controlled switching equipment.

The CCL provides a General (export) License GLV value limit on commodities in the list. The GLV value is the maximum value allowed for exporting the commodity without a validated license to the designated Country Groups.

This rule, which neither expands nor limits the provisions of the Export Administration Regulations, corrects the GLV value limit for exports of ECCN 1567A commodities to the People's Republic of China and all destinations in Country Groups QSWYZ. The GLV value was incorrectly stated in the December 31, 1984 rule as being $1,000 for exports to all destinations.

EFFECTIVE DATE: May 7, 1986.

FOR FURTHER INFORMATION CONTACT: John Black or Patti Muldonian, Export Administration, (Telephone (202) 377–2440).

SUPPLEMENTARY INFORMATION:

Rulemaking Requirements

1. Because this rule concerns a foreign and military affairs function of the United States, it is not a rule or regulation within the meaning of section 1(a) of Executive Order 12291, and it is not subject to the requirements of that Order. Accordingly, no preliminary or final Regulatory Impact Analysis has to be or will be prepared.

2. Section 13(a) of the Export Administration Act of 1979, as amended (50 U.S.C. App. 2412(a)), exempts this rule from all requirements of section 553 of the Administrative Procedure Act (APA) (5 U.S.C. 553), including those requiring publication of a notice of proposed rulemaking, an opportunity for public comment, and a delay in effective date. This rule is also exempt from these APA requirements because it involves a foreign and military affairs function of the United States. Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this rule. Accordingly, it is being issued in final form. However, as with other Department of Commerce rules, comments from the public are always welcome. Written comments (six copies) should be submitted to: Betty Ferrell, Regulations Branch, Export Administration, U.S. Department of Commerce, P.O. Box 273, Washington, DC 20044.

3. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by section 553 of the Administrative Procedure Act (5 U.S.C. 553) or by any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a) and 604(a)) no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

4. This rule does not contain a collection of information subject to the requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq.

Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis.

List of Subjects in 15 CFR Part 399

Exports.

Accordingly, 15 CFR Part 399 of the Export Administration Regulations is amended as follows:

1. The authority citation for 15 CFR Part 399 continues to read as follows:

Authority: Pub. L. 96–72, 93 Stat. 503, 50 U.S.C. App. 2401 *et seq.*, as amended by Pub. L. 97–145 of December 29, 1981 and by Pub. L. 99–64 of July 12, 1985; E.O. 12525 of July 12, 1985 (50 FR 28757, July 16, 1985); Pub. L. 95–223, 50 U.S.C. 1701 *et seq.*; E.O. 12532 of September 9, 1985 (50 FR 36861, September 10, 1985).

2. Supplement No. 1 to § 399.1 (the Commodity Control List) is amended by revising the *GLV $ Value Limit* paragraph for ECCN 1567A (in Commodity Group 5, Electronics and Precision Instruments) to read as follows:

1567A Stored Program Controlled Communication Switching Equipment or Systems and Technology Therefor; and Specially Designed Components Therefor, for the Use of These Equipment or Systems

* * * * *

GLV $ Value Limit: $1,000 for Country Groups T & V, except $0 for the People's Republic of China; $0 for all other destinations.

Dated: April 30, 1986.

Walter J. Olson,

Deputy Assistant Secretary for Export Administration.

[FR Doc. 86–10050 Filed 5–6–86; 8:45 am]

BILLING CODE 3510-DT-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 404 and 416

[Regs. No. 4 and 16]

Supplemental Security Income for the Aged, Blind, and Disabled; Determining Disability and Blindness Frequency and Notice of Continuing Eligibility Reviews

AGENCY: Social Security Administration, HHS.

ACTION: Final rules.

SUMMARY: Section 15 of the Social Security Disability Benefits Reform Act of 1984, Pub. L. 98–460 (the 1984 Disability Amendments) requires the Secretary to issue regulations which establish the rules to be used to schedule reviews of continuing entitlement of persons receiving benefits because of disability or blindness. Section 221(i) of the Social Security Act requires that all persons with nonpermanent impairments receiving benefits because of disability must generally be reviewed at least once every 3 years. Section 221(i) also requires that the eligibility of persons having permanent impairments be reviewed at such times as the Secretary deems appropriate. There is no definition of "permanent impairment" in the statute. The identification of impairments now considered permanent is based on administrative experience with continuation rates for certain impairments and age groups or combinations thereof. The categories of impairments considered permanent will be continually modified with increased experience and medical developments. In addition there is a body of cases

involving medical conditions which we expect to improve within a short time. These are referred to as medical improvement expected cases (formerly called medical reexamination diary cases) and under administrative procedures are diaried for review. These rules set forth the standards pursuant to which continuing disability reviews (CDR) will be scheduled so that those receiving disability benefits may better understand the review process and its timing. Appropriate definitions are provided, including definitions of permanent and nonpermanent impairments. These regulations also implement sections 6 (a) and (b) of the 1984 Amendments, which require notice to an individual preceding the CDR of his or her case. These rules apply to persons receiving benefits because of disability or blindness under title II or title XVI of the Act.

DATE: These rules are effective May 7, 1986.

FOR FURTHER INFORMATION CONTACT: Harry J. Short, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, Telephone (301) 594–7337.

SUPPLEMENTARY INFORMATION: Section 15 of the 1984 Disability Amendments requires the Secretary to publish in regulations the standards to be used in determining the frequency of reviews under section 221(i) of the Social Security Act. Prior to the Social Security Disability Amendments of 1980, Pub. L. 96–265 (the 1980 Disability Amendments), which added section 221(i) to the Act, there was no requirement for a periodic review of disability for all persons who were receiving disability benefits. SSA generally reviewed only those individuals whose conditions were expected to improve. In determining whether such a medical review was appropriate, the nature of the impairment, whether significant medical improvement could be expected, and the individual's age were all considered. An initial medical review diary would generally be set for not less than 6 months or more than 18 months following the most recent decision. A rediary following such a review which resulted in a person's benefits being continued would be established when there was clear reason to expect subsequent improvement and was usually set for a shorter period than the initial diary, generally less than 12 months.

In the 1980 Disability Amendments Congress expressed its concern that looking only at individuals whose conditions were expected to improve was not adequate. Congress, therefore, mandated a review of all individuals receiving disability benefits under title II at least once every 3 years for those whose impairments are not permanent and on a schedule to be determined by the Secretary for those whose impairments are permanent. The 1982 Amendments (Pub. L. 97–455) provided the Secretary flexibility in carrying out CDR's. In determining the number of cases to be reviewed by any given State over a specific period of time, the Secretary may consider backlogs of pending reviews as well as current and projected staffing levels in the Social Security field offices and State agency and the availability of adequate medical resources which are necessary to do a complete and accurate review. In the 1984 amendments Congress required the Secretary to publish regulations which explain the frequency with which the various periodic continuing disability reviews will be conducted. This mandate was in response to Congressional concern that disabled beneficiaries be generally aware of when their claims will be reviewed and that such reviews not be conducted soon after an individual establishes continuing eligibility following a lengthy appeal.

When We Will Conduct a Continuing Disability Review

A continuing disability review may be conducted if one or more of the following events occurs:

(1) The individual has been scheduled for a medical improvement expected diary review;

(2) The individual has been scheduled for a medical improvement possible or medical improvement not expected diary review (formerly called periodic review) in accordance with the provisions of regulation §§ 404.1590(d) or 416.990(d);

(3) We need a current medical or other report to see if the individual's disability continues. (This could happen when, for example, an advance in medical technology, such as improved treatment for Alzheimer's disease or a change in vocational therapy or technology raises a disability issue);

(4) The individuual returned to work and successfully completed a trial work period;

(5) Substantial earnings are reported to the individual's wage record;

(6) The individual tells us that he or she has recovered from his or her disability or has returned to work;

(7) A State vocational rehabilitation agency reports that its services have been completed or that the individual is now working or is able to work;

(8) Someone in a position to know of the individual's physical or mental condition reports that the individual is not disabled, is not following prescribed treatment, has returned to work or is failing to follow the provisions of the Social Security Act and regulations, and it appears the report could be substantially correct;

(9) Evidence we receive raises a question as to whether the individual's disability continues; or

(10) The individual has been scheduled for a vocational reexamination diary review.

Additional Regulatory Provisions

Other than administrative guidelines which provide that medical improvement expected diary cases generally will be reviewed between 6 and 18 months following entitlement and that medical improvement possible diary cases will be reviewed every 3 years, SSA has not published specific rules with respect to frequency of review.

These final regulations apply to persons receiving benefits because of disability or blindness under either title II or title XVI of the Social Security Act. Although section 221(i) of the Act does not mandate periodic eligibility review of persons receiving benefits under title XVI because of disability or blindness, these final regulations extend the periodic continuing disability review procedures to title XVI blind and disabled beneficiaries. This extension is within the Secretary's regulatory authority under title XVI of the Social Security Act, sections 1631(d)(1) and 1633, and is in accord with the legislative history of the 1980 Amendments to the Act which added section 221(i). The report of the Senate Committee on Finance states:

> The committee believes that such [periodic review] procedures should be applied on the same basis to the DI and SSI programs.

We plan to review periodically the eligibility of persons receiving benefits solely under title XVI because of disability or blindness with the same frequency as we review the eligibility of persons receiving disability benefits under title II. This will establish consistency in the operation of the disability programs. When we begin the periodic review of these cases is dependent on such considerations as the backlog of pending reviews, the projected number of new applications, and the availability of resources needed to ensure careful and accurate reviews.

Before we begin these periodic reviews, we will notify the public of the beginning date of the review program by publication of a Notice in the **Federal Register.**

These regulations also reflect sections 6 (a) and (b) of Pub. L. 98–460, which require that when we begin a periodic review of an individual's eligibility to benefits we inform the individual of the nature of the review, the possibility that the review could result in termination of his or her benefits, and his or her right to submit medical evidence for our consideration during the review. We will apply this provision to all continuing disability reviews. Changes to §§ 404.1589 and 416.989 reflect this policy.

In §§ 404.1590 (c), (d) and (e) and 416.990 (c), (d) and (e) we have defined "permanent" (medical improvement not expected) and "nonpermanent" (medical improvement possible) impairments, "vocational reexamination diary" and "medical reexamination diary," discussed the frequency with which we will conduct CDR's, and provided for potential changes in the classification of a person's impairment. We have provided that a nonpermanent impairment that does not require a medical improvement expected diary will be reviewed at least once every 3 years and a permanent impairment at least once every 7 years, but no more frequently than once every 5 years unless a question of continuing eligibility is raised. We also explain in §§ 404.1590(f) and 416.990(f) that we will not conduct a review earlier than 3 years following establishment of continuing eligibility by an administrative law judge, the Appeals Council or a Federal Court, unless the case should be scheduled for medical improvement expected or vocational reexamination diary or a question of continuing eligibility is raised.

Comments Received Following Publication of the Notice of Proposed Rulemaking

These regulations were published as proposed rules on June 18, 1985 (50 FR 25400). Interested parties were given 45 days to submit comments. We received letters from 14 different sources, including some State agencies that make disability determinations, other State agencies such as those concerned with problems of aged and disabled persons, and several legal aid groups. Although most of the commenters expressed more than one concern, many recommended that regulation §§ 404.1589 and 416.989 be amended to provide that the medical improvement review standard be addressed in the notice informing individuals of a continuing disability review. Many commenters also suggested that we clarify the meaning of "erroneous" shown in §§ 404.1590(b)(3) and 416.990(b)(3). We have addressed these comments, as well as the others that we received, below.

Reasons for Continuing Disability Review

Comment: Several commenters stated that the regulations should specifically list all reasons for conducting a continuing disability review, and delete the general reason in § 404.1590(b)(9) (and similar language in § 416.990(b)(9)) which states, "evidence we receive raises a question as to whether your disability continues". They believe that this reason is so broadly written that it may lead to the abuse of reviewing claims at any time without justification.

Response: Although we have listed the principal reasons for conducting a continuing disability review, we cannot identify every possible event which may occur and which may require a CDR.

We must be able to conduct a review when an event occurs that gives a strong indication that the individual's impairment has improved. For example, a physician may submit an unsolicited medical report or evidence may be received in connection with a nondisability issue which raises a question. We are not including this general reason for review in order to permit reviews without justification, but to permit a review when some unforeseen event occurs which reasonably raises a question of continued disability and, therefore, justifies a review. Accordingly, we have decided to retain this reason for starting a continuing disability review.

Comment: One commenter suggested that we revise the reasons for conducting a continuing disability review upon receipt of information from the Vocational Rehabilitation Agency as follows: (1) the services have been completed (instead of "the individual's training has been completed"); (2) you are now working (instead of "the individual has returned to work"); or (3) you are able to work. The basis for this suggestion was that many individuals receive vocational rehabilitation services but are not trained and have never worked.

Response: We agree with the suggestion and have made the appropriate changes in §§ 404.1590(b)(7) and 416.990(b)(7).

Comment: Several commenters urged that we delete from §§ 404.1590(b)(3) and 416.990(b)(3), "it appears that a decision may have been erroneous" as a reason for conducting a continuing disability review. They believe this language is so broad that it will permit a medical review soon after an individual's disability is established following a lengthy appeal. Such a review could result in a determination to reverse the favorable administrative law judge, Appeals Council or court decision.

Response: It is our intent that these regulations fully protect against early disability reviews after favorable appeal decisions and that they will prevent improper reviews. As such, we have decided to delete the questioned phrase because the possible erroneous decision situation is covered in regulation §§ 404.989 and 416.1488, entitled, "Good cause for reopening."

Comment: A number of commenters believe the reason for conducting a CDR because a current medical or other report is needed to see if disability continues is worded too broadly. Generally, these commenters feel these sections could be interpreted to affect almost everyone receiving disability benefits.

Response: We believe we must be able to review the claims of individuals with any impairment in which advances in the medical field may change the severity of the impairment. As we cannot anticipate what changes might occur, we cannot identify what the standards might be for conducting the reviews specified in §§ 404.1590(b)(3) and 416.990(b)(3). However, as illustrated by the example in these regulatory sections, the most likely reason for conducting such reviews will be when advances in medical technology or changes in vocational therapy or technology raise an issue as to whether an individual's disability is continuing.

Comment: One commenter stated that we should delete "you return to work and successfully complete a period of trial work" as a reason for conducting a continuing disability review. The reason given is that the issue is already covered by the rule that we will conduct a review when substantial earnings are reported to an individual's wage record. The commenter believes that listing both reasons will cause confusion and will lead to inappropriate reviews each time there are intermittent periods of work during a trial work period.

Response: The two reasons for conducting a continuing disability review mentioned by the commenter refer to two different issues. When a person returns to work, one of two actions can occur. A trial work period can be established for an individual, and a review will not be conducted until

the individual has worked during 9 months. Or, on the other hand, a review can be conducted immediately when substantial earnings are reported to an individual's wage record. Because two different issues are involved, both reasons need to be retained.

Comment: A few commenters objected to providing for CDRs based on information received from a source as described in §§ 404.1590(b)(8) and 416.990(b)(8). One commenter believes that this provision could encourage the filing of nuisance charges against disabled individuals for other than sound medical reasons.

Response: We must investigate reports which raise an issue of continuing disability in order to assure that benefits are being paid only to those who are entitled to them under the law. This reason for conducting a CDR was added when we revised §§ 404.1590(b) and 416.990(b) in 1980. If we are to properly administer the disability program, we cannot ignore unsolicited information such as a medical report or information on work activity which raises a disability issue. However, §§ 404.1590(b)(8) and 416.990(b)(8) state that the report must be from someone in a position to know about the individual and that it could be substantially correct. Thus, CDR's will not be conducted on the basis of rumor or conjecture.

Frequency of Review

Comment: One commenter indicated that the phrase "at least once every 3 years" should be changed to "no more frequently than once every 3 years".

Response: Since the law itself, in addressing this issue, specified "reviews will be conducted at least once every 3 years", we have maintained the language as shown in the proposed regulations.

Comment: A commenter suggested that if no improvement is found after the initial medical improvement expected continuing disability review, the new review should be scheduled for 3 years rather than an "automatic rescheduling." (We assume automatic rescheduling means a 6 to 18 months review diary.)

Response: The regulations do not require "automatic rescheduling." The frequency of reviews as explained in §§ 404.1590(d) and 416.990(d) depends upon whether a person's impairment(s) is: (1) Expected to improve; (2) such that medical improvement cannot be accurately predicted; or (3) permanent. These sections further explain that reviews will generally be done at intervals from 6 months to 18 months if improvement is expected; at least once every 3 years if medical improvement cannot be accurately predicted; and no less than once every 7 years but no more often than once every 5 years if the person's disability is considered permanent. Furthermore, §§ 404.1590(e) and 416.990(e) specify that impairments may be reclassified. If a person's impairment is reclassified, the frequency with which the case will be reviewed will depend upon the new classification. For example, if a person's impairment was previously expected to improve and following a continuing disability review it is determined that medical improvement cannot now be accurately predicted, the frequency of review will convert to at least once every 3 years.

Although we felt the regulations were clear in this area, we have revised §§ 404.1590(e) and 416.990(e) to specify that a change in the classification of an impairment will change the frequency with which a case will be reviewed.

Comment: One commenter objected to assigning review dates from once every 5 years to once every 7 years for permanently impaired individuals. The objection was based on the feeling that the same review period may not be given to all individuals with the same impairment.

Response: All individuals with permanent impairments will be assigned a 7-year review cycle. However, flexibility in the frequency of review has been established to permit assigning different review periods to different permanent impairment categories should future experience indicate it to be more appropriate to review certain impairments on different time cycles than others. Thus, the timeframes for the review of individuals with permanent impairments may vary based on impairment categories, but individuals with the same impairments will be assigned the same review cycle.

Comment: Another commenter believes that after an individual has been reviewed once and no improvement is found, subsequent reviews should not be more frequent than once every 5 years.

Response: We agree that less frequent reviews may be appropriate if evidence continues to show no improvement in an individual's impairment(s). However, frequency of review depends on a variety of factors such as, the expectations for recovery from specific impairments, treatments, breakthroughs in medical science, etc. Sections 404.1590(e) and 416.990(e) of the regulations, which provide for changing an individual's medical classification, will permit us to extend review cycles appropriately. Individuals may be classified after such review as being permanently disabled regardless of the type of impairment. Development of procedures for less frequent reviews will be based on experience with reviews under the schedules establised by these regulations.

Comment: One commenter stated that the interval for periodic review of permanent disabilities is too brief.

Response: We recognize that the nature of impairments classified as permanent is such that there is little likelihood of recovery and in many cases there will be progressive worsening of the conditions. Nevertheless, we believe that a flexible review period of no less frequently than once every 7 years but no more frequently than once every 5 years is responsive to the congressional concern for a less frequent review cycle for permanent impairment cases.

Comment: Some commenters voiced their concerns regarding reviews after administrative appeals. One commenter suggested that we state we will not conduct a review earlier than 3 years after a decision resulting from an administrative appeal unless the case is scheduled for a medical reexamination diary review because medical improvement can be expected. Other commenters believe the regulations should be clarified to ensure that a continuing disability review will not be conducted within 3 years of a decision by the Appeals Council or a Federal Court.

Response: The final regulations have been amended to define a medical or vocational reexamination diary review as a review for medical or vocational improvement expected cases. We believe the regulations now address the concerns of these commenters as §§ 404.1590(f) and 416.990(f) now provide that a continuing disability review will not be conducted earlier than 3 years after a favorable decision by an administrative law judge, the Appeals Council, or a Federal Court unless medical or vocational improvement is expected before expiration of a 3-year period or a question of continuing disability is raised under one of the other provisions of the regulations.

Permanent Impairments

Comment: A few commenters requested that the list of impairments considered permanent be stated in the regulations. A related comment suggested that the regulations clearly state that the list of permanent impairments is not limited to the examples provided in the regulation. It was further suggested that we more clearly state that the permanent

impairments are those currently maintained in our Program Operations Manual System instructions.

Response: We decided against publishing a specific list of permanent impairments in the regulations. Such a list would be administratively cumbersome and would limit our ability to respond quickly to required revisions in the classification of an individual's impairment due to changes in medical therapy, technology, and administrative experience, etc. Further, whether an impairment is classified as permanent depends on a variety of factors (age, severity, availability of treatment, etc.). As these factors change and influence the classification of an impairment, we need the flexibility to revise the list of impairments considered permanent without having to go through the regulatory process.

Rather than list the permanent impairments in the regulations, we have revised the regulations to indicate that the list of impairments classified as permanent is contained in our operating instructions (Program Operations Manual System) and that the examples cited in the regulations are taken from this list and are not intended to be all inclusive.

Comment: A few commenters indicated that once an individual has been classified as permanently disabled with no likelihood of improvement, it is unfair to require the person to again prove disability. One commenter noted that it is a serious matter for an individual designated as permanently disabled for many years to suddenly be subjected to a review every 7 years as it could lower the morale and esteem of such an individual. It was further suggested that a physician should perform a folder review of the medical evidence of record for individuals determined to be permanently disabled before the regulations are published, and that only individuals with a strong probability of improvement should be notified of and subjected to a review. No reviews should be required for individuals determined to be permanently disabled with no likelihood of improvement after the regulations are published.

Response: Section 221(i) of the Social Security Act requires that the eligibility of individuals with permanent impairments be reviewed at such times as we determine to be appropriate. We are well aware of the sensitivities involved with the review of this category of impairments and have taken precautions to lessen the effect on individuals. A special process for conducting reviews of individuals classified as permanently disabled is being developed. This process emphasizes paper reviews and telephone contacts to verify that the impairment is continuing. It should eliminate the need for most individuals to visit a Social Security office. Although these are impairments that, by definition, are not expected to improve, we cannot be sure in all instances that a case has been adequately documented or that the condition still exists. Therefore, we must conduct a review as described above. However, regardless of the type of review being conducted, all individuals will receive notice of the review as required by section 221(i)(4) of the Social Security Act.

Comment: One commenter indicated that the definition of permanent impairment should be amended to include a statement that an impairment subject to occasional remission can be included as a permanent classification. The rationale for this is the phrase "and unlikely to improve so as to permit the individual to engage in substantial gainful activity" suggests that conditions subject to temporary remission are not classifiable as permanent.

Response: We agree with the suggestion to amend the definition and have made the necessary change to indicate that temporary remission in the severity of an impairment will not be a factor in deciding if an impairment is permanent. A prime example of such an impairment is multiple sclerosis which has reached the level of severity necessary to meet the medical listing of 20 CFR Part 404, Subpart P, Appendix 1 which our other written guidelines classify as permanent but which has periods of remission.

Comment: One commenter stated §§ 416.990(c) and 404.1590(c) would more clearly define permanent impairments by the use of an example like amputation. The commenter further stated that most individuals believe their impairments are "permanent," and by saying that we might someday review the claims of individuals with Alzheimer's disease and that Parkinsonian Syndrome is "permanent" doesn't clarify to the individual whether or not he or she has a "permanent" impairment. It was also suggested that examples of nonpermanent impairments should be given to help clarify this issue.

Response: We agree with these suggestions and have added "amputation of leg at hip" to the examples in §§ 404.1590(c) and 416.990(c), and have amended these sections to reflect three examples of nonpermanent impairments.

Notices

Comment: Several commenters suggested that the language in the notice to the recipient contained in the proposed revisions to §§ 404.1589 and 416.989 be amended to include information that the beneficiary will be reviewed under the medical improvement review standard, what the standard means and the exceptions to the standards.

Response: We agree with this suggestion and have made the appropriate changes. In most cases, the prereview notice will contain an explanation of the medical improvement review standard and the exceptions to the standard. In SSI blindness cases, however, the medical improvement standard does not apply. Therefore, the notices for those cases will not mention the suggested information.

Comment: One commenter suggested that any notice of termination after a CDR should include a list of legal resources which would enable the individual whose benefits have been curtailed to obtain legal assistance in fighting the termination.

Response: It is not administratively feasible to include such specific information in individual notices. However, Social Security disability termination notices advise individuals that their local Social Security office can provide the names of individuals and groups that can help with appeals. Providing this information at local levels should yield the most helpful, accurate and up-to-date information for these individuals.

Comment: One commenter stated that blind persons need to receive notices in Braille, while many mentally retarded persons must have notices read to them.

Response: Social Security currently offers blind persons the opportunity of receiving notices in Braille translations.

District office staff explain this right to blind individuals during the interview process. If this option is selected, the case is identified for preparation and release of a notice in Braille.

Social Security notices include a statement that a person may call or visit any Social Security office if they have any questions about the notice. If a mentally retarded person does not have a representative selected to receive his or her notice and explain what the notice says, the concluding paragraph of the notice directs the person to request assistance in understanding the notice. This paragraph begins with the following *underlined* statement: *"If you have any questions . . . ."* Instructions are then provided that if an individual

has any questions about the notice, he or she should call, write or visit any Social Security office to have the questions resolved. We believe that this information satisfies the concerns expressed by the commenter.

Comment: One commenter questioned how disabled individuals and the public are to know which impairments have been reclassified. The commenters asked, "Will there be brochures available and public affairs announcements, or will it only be made available at the time someone receives a letter indicating a review is imminent?"

Response: We do not anticipate that a change in classification of an impairment would generate the need for a wide-spread media campaign. Generally, the way individuals will be aware of the classification of their impairments is by the notice informing them when they will be scheduled for a continuing disability review. However, a list of impairments which are expected to improve (i.e., impairments for which medical reexamination diaries are established), and a list of impairments which are not expected to improve (i.e., permanent impairments) are published in our Program Operations Manual System instructions. These instructions are available to the public and may be reviewed at any Social Security office.

Comment: Several commenters suggested that the regulations specify that written cessation determination notices sent to the beneficiaries should contain notice of their right to benefit continuation during appeal through the Administrative Law Judge decision.

Response: Written cessation notices will contain information about benefit continuation.

Comment: One commenter suggested that notices must be received at least 60 days in advance to allow individuals sufficient time to make arrangements for transportation and assistance for required physical examinations.

Response: The consultative examination regulations (20 CFR 404.1517 and 416.917) provide regulatory authority for scheduling consultative examinations. We believe our procedures allow sufficient time before a scheduled examination. Notices of these examinations explain that a more suitable examination appointment may be requested if the individual cannot keep a scheduled appointment. The notice tells the person to let the Disability Determination Service know right away if the appointment cannot be kept. We believe that this policy allows for the greatest flexibility in meeting both the administration's case development needs and the individual's personal needs. The prereview notices, which are referenced in 20 CFR 404.1589 and 20 CFR 416.989, are not used to schedule consultative medical examinations.

Comment: One commenter suggested that prereview notices issued under §§ 404.1589 and 416.989 specify that current benefits will not be stopped prior to a final termination that the determination is justified, that the review is periodic (if applicable), and the review is routine (if applicable).

Response: We agree with this commenter, and we believe the prereview notice responds to these concerns.

Waiver of Timeframes

Comment: A number of commenters expressed concern about §§ 404.1590(g) and 416.990(g) regarding waiver of timeframes. Some commenters stated that this provision could result in some individuals being exempt from review and others not. Other commenters stated that the wavier of timeframes for conducting CDRs should be based on negotiations with the State agency. It was further stated that any such waiver should take into account the size and financial resources of the agency and the number of claims to be processed in order to prevent unrealistic workloads which could lead to inaccurate determinations.

Response: Our response to each specific comment is:

(1) The waiver of timeframes will not exclude anyone from a CDR. The regulations will only provide that in certain specific circumstances States may take a longer time period to complete a review cycle. This waiver provision is essential to assuring that all reviews are done carefully and accurately as required by Pub. L. 98–460.

(2) Negotiations with State agencies are a vital part of the waiver process. Such negotiations help assure compliance with these regulatory provisions.

(3) We have not adopted the suggestion that the size and financial resources of the state agency be considered a factor when determination whether a state should be given a waiver of the timeframes for conducting CDR's since such factors are not authorized by the statute. However, we believe consideration of the factors authorized by the statute responds to the commenter's concerns.

Miscellaneous Comments

Comment: A few commenters stated that the language concerning the reclassification of impairments is not clear and should be clarified by setting out the standards for making a change. One commenter stated that the beginning of the proposed section should require a regular medical improvement diary for individuals rather than a change in classification. The same commenter stated, "administrative reclassification of types of disabilities for (sic) permanent to nonpermanent or changes in listing or severity should only occur after opportunity for notice and comments on the general reclassification which also notes the CDR impact so that disabled people could properly evaluate the impact of such changes."

Response: Provisions for reclassifying impairments are essential to ensuring that reviews are conducted at correct frequencies. As we are unable to anticipate what changes in medical treatment or technology may occur, we cannot establish more specific regulatory standards for changing the classification of impairments. If we were to wait to reclassify an impairment until individuals were notified and provided an opportunity to comment on the reclassification, we would be unable to conduct reviews at appropriate frequencies. However, as indicated in an earlier response, we have amended §§ 404.1590(e) and 416.990(e) to specify that a change in the classification of an impairment will change the frequency with which a case will be reviewed.

Comment: One commenter suggested that because individuals have already been determined to be disabled, a CDR decision should be called a "redetermination" rather than a "determination."

Response: Each CDR is a new review of a disabled individual with a decision being made as to whether new evidence indicates a determination of medical improvement and whether disability is continuing or has ceased. The term "determination" has been used to describe the written disability decision since the inception of the disability program. On the other hand, the term "redetermination" is used in the Supplemental Security Income Program to describe the written decision covering the review of nondisability factors. We believe that to use the same term for different functions in the two programs would lead to confusion.

Comment: A few commenters raised the issue of who will assign diaries on appeal cases. It was suggested that, to ensure uniformity, administrative law judges establish the medical review diaries on cases which they decide.

Response: Regardless of the level of decisionmaking, diaries are assigned based on the nature and severity of the impairment. Although they are usually

assigned by the decisionmaker at any decision level, there are instances when someone other than the decisionmaker assigns the diary (e.g., the SSA operating component that effectuates the ALJ decision assigns the diary, unless one is specified by the ALJ). When this becomes necessary, the diary is assigned based on the nature and severity of the impairment as reflected in the decision. Considering these factors, we believe we cannot establish regulatory provisions which would restrict a component other than the one that made the decision from establishing a diary. To do so would result in inefficient case processing and ineffective administration of the disability program.

Comment: One commenter stated that in the event a premature review occurs, the review should be stopped as soon as the error is discovered or that any negative determination resulting from such a review be vacated.

Response: Current procedures direct interviewers not to start the CDR if the review category or the date for review is inappropriate. If the review is in progress when the inappropriate category is discovered, ordinarily the review will not be completed. However, should evidence have been secured which shows medical improvement and an ability to engage in substantial gainful activity, we cannot ignore such evidence solely on the basis that we conducted an early review.

Comment: One commenter stated that there is a conflict between the provision for developing at least 12 months of medical history and the need to compare the prior decision to current evidence under the Medical Improvement Review Standard (MIRS).

Response: We believe there is no conflict. The requirement to secure evidence for at least 12 months preceding the review enables us to better assess the individual's impairment at the time of review. Moreover, the requirement is in the statute.

Comment: One commenter recommended that "advances in medical technology which affect eligibility requirements" be clarified.

Response: We refer to an advance in medical technology only as an example to illustrate when we will conduct an unscheduled CDR. This refers to any unforeseen medical discovery which could affect an individual's impairment to the point that it raises a question of whether the individual is still disabled. Since it is used as an example only, we are not defining this further in the regulation.

Comment: One commenter questioned the accuracy of the Regulatory Flexibility Act statement as shown in the proposed rules. This commenter stated, "The Administration's implementation of CDR's for title XVI clients would invariably 'bump from the benefit rolls people who should still be receiving benefits, and this would, in turn, increase the demand for state-funded programs (e.g., Home Relief)."

Response: An individual's payments will be terminated only after he or she has been determined to have medically improved and he or she is able to work or one of the exceptions applies. Therefore, such an individual should not continue to receive SSI benefits based on disability. His/her eligibility for State funded programs would not result directly from SSA's finding that he/she was no longer disabled but from the eligibility requirements for such programs.

Additional Changes in the Regulations

Vocational reexamination diary review has been added to the list of events which will initate a continuing disability review in §§ 404.1590 and 416.990. We have added this event to these final regulations because of the exceptions to the medical improvement standard required by Pub. L. 98–460 that the individual has benefited from advances in vocational therapy or has undergone vocational therapy related to his or her ability to work and is now able to perform substantial gainful activity. Thus, it seemed advisable to add this event to permit a CDR when an individual, at the time of an initial or CDR decision, is in a vocational therapy, training or other educational program which may improve his or her ability to work.

We have also removed blindness from the general SSI review regulation, § 416.989. That section indicates that a medical improvement standard applies in the reviews discussed in that section. The medical improvement standard does not apply in SSI blindness cases. Therefore, we have added a new § 416.989a to explain when we will review SSI blindness cases and describe the notice we will send in these cases.

Regulatory Procedures

Executive Order No. 12291

These final regulations have been reviewed under Executive Order 12291 and we have determined that they do not create costs of $100 million or more yearly, or otherwise meet the threshold of the Executive Order. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

These final regulations will impose no new reporting or recordkeeping requirements subject to clearance by the Office of Management and Budget.

Regulatory Flexibility Act

We certify that these final regulations will not have a significant economic impact on a substantial number of small entities because they primarily affect only disabled or blind individuals who are receiving title II or title XVI benefits because of disability or blindness. These final regulations should have little or no effect on the States since they reflect the present title II frequency of review cycles. Additionally, the review of title XVI cases (when implemented) should have minimal impact on State-funded programs as individuals whose payments are terminated as a result of such reviews are expected to seek employment rather than assistance from State-funded programs. Therefore, a regulatory flexibility analysis as provided in Pub. L. 96–354, the Regulatory Flexibility Act, is not required.

(Catalog of Federal Domestic Assistance Program No. 13.802, Disability Insurance; No. 13.807, Supplemental Security Income Program)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-Age, Survivors and Disability Insurance.

20 CFR Part 416

Administrative practice and procedure, Aged, Blind, Disability benefits, Public assistance programs, Supplemental Security Income (SSI).

Dated: January 22, 1986.

Martha A. McSteen,

Acting Commissioner of Social Security.

Approved: March 12, 1986.

Otis R. Bowen,

Secretary of Health and Human Services.

PART 404—[AMENDED]

Part 404 of Chapter III of title 20 of the Code of Federal Regulations is amended to read as follows:

1. The authority citation for Subpart P of Part 404 is revised to read as follows:

Authority: Secs. 202, 205, 216, 221, 222, 223, 225, and 1102 of the Social Security Act, as amended; 42 U.S.C. 402, 405, 416, 421, 422, 423, 425, and 1302; sec. 505(a) and (c) of Pub. L. 96–265, secs. 2, 5, 6 and 15 of Pub. L. 98–460.

2. Section 404.1589 is revised to read as follows:

§ 404.1589 We may conduct a review to find out whether you continue to be disabled.

After we find that you are disabled, we must evaluate your impairment(s) from time to time to determine if you are still eligible for disability cash benefits. We call this evaluation a continuing disability review. We may begin a continuing disability review for any number of reasons including your failure to follow the provisions of the Social Security Act or these regulations. When we begin such a review, we will notify you that we are reviewing your eligibility for disability benefits, why we are reviewing your eligibility, that in medical reviews the medical improvement review standard will apply, that our review could result in the termination of your benefits, and that you have the right to submit medical and other evidence for our consideration during the continuing disability review. In doing a medical review, we will develop a complete medical history of at least the preceding 12 months in any case in which a determination is made that you are no longer under a disability. If this review shows that we should stop payment of your benefits, we will notify you in writing and give you an opportunity to appeal. In § 404.1590 we describe those events that may prompt us to review whether you continue to be disabled.

3. Section 404.1590 is revised to read as follows:

§ 404.1590 When and how often we will conduct a continuing disability review.

(a) *General.* We conduct continuing disability reviews to determine whether or not you continue to meet the disability requirements of the law. Payment of cash benefits or a period of disability ends if the medical or other evidence shows that you are not disabled as determined under the standards set out in section 223(f) of the Social Security Act.

(b) *When we will conduct a continuing disability review.* A continuing disability review will be started if—

(1) You have been scheduled for a medical improvement expected diary review;

(2) You have been scheduled for a periodic review (medical improvement possible or medical improvement not expected) in accordance with the provisions of paragraph (d) of this section;

(3) We need a current medical or other report to see if your disability continues. (This could happen when, for example, an advance in medical technology, such as improved treatment for Alzheimer's disease or a change in vocational therapy or technology raises a disability issue.);

(4) You return to work and successfully complete a period of trial work;

(5) Substantial earnings are reported to your wage record;

(6) You tell us that you have recovered from your disability or that you have returned to work;

(7) Your State Vocational Rehabilitation Agency tells us that—

(i) The services have been completed; or

(ii) You are now working; or

(iii) You are able to work;

(8) Someone in a position to know of your physical or mental condition tells us that you are not disabled, that you are not following prescribed treatment, that you have returned to work, or that you are failing to follow the provisions of the Social Security Act or these regulations, and it appears that the report could be substantially correct;

(9) Evidence we receive raises a question as to whether your disability continues; or

(10) You have been scheduled for a vocational reexamination diary review.

(c) *Definitions.* As used in this section—

"Medical improvement expected diary"—refers to a case which is scheduled for review at a later date because the individual's impairment(s) is expected to improve. Generally, the diary period is set for not less than 6 months or for not more than 18 months. Examples of cases likely to be scheduled for medical improvement expected diary are fractures and cases in which corrective surgery is planned and recovery can be anticipated.

"Permanent impairment"—medical improvement not expected—refers to a case in which any medical improvement in the person's impairment(s) is not expected. This means an extremely severe condition determined on the basis of our experience in administering the disability programs to be at least static, but more likely to be progressively disabling either by itself or by reason of impairment complications, and unlikely to improve so as to permit the individual to engage in substantial gainful activity. The interaction of the individual's age, impairment consequences and lack of recent attachment to the labor market may also be considered in determining whether an impairment is permanent. Improvement which is considered temporary under §§ 404.1579(c)(4) or 404.1594(c)(3)(iv), as appropriate, will not be considered in deciding if an impairment is permanent. Examples of permanent impairments taken from the list contained in our other written guidelines which are available for public review are as follows and are not intended to be all inclusive:

(1) Parkinsonian Syndrome which has reached the level of severity necessary to meet the Listing in Appendix 1.

(2) Amyotrophic Lateral Sclerosis which has reached the level of severity necessary to meet the Listing in Appendix 1.

(3) Diffuse pulmonary fibrosis in an individual age 55 or over which has reached the level of severity necessary to meet the Listing in Appendix 1.

(4) Amputation of leg at hip.

"Nonpermanent impairment"—refers to a case in which any medical improvement in the person's impairment(s) is possible. This means an impairment for which improvement cannot be predicted based on current experience and the facts of the particular case but which is not at the level of severity of an impairment that is considered permanent. Examples of nonpermanent impairments are: regional enteritis, hyperthyroidism, and chronic ulcerative colitis.

"Vocational reexamination diary"—refers to a case which is scheduled for review at a later date because the individual is undergoing vocational therapy, training or an educational program which may improve his or her ability to work so that the disability requirement of the law is no longer met. Generally, the diary period will be set for the length of the training, therapy, or program of education.

(d) *Frequency of review.* If your impairment is expected to improve, generally we will review your continuing eligibility for disability benefits at intervals from 6 months to 18 months following our most recent decision. Our notice to you about the review of your case will tell you more precisely when the review will be conducted. If your disability is not considered permanent but is such that any medical improvement in your impairment(s) cannot be accurately predicted, we will review your continuing eligibility for disability benefits at least once every 3 years. If your disability is considered permanent, we will review your continuing eligibility for benefits no less frequently than once every 7 years but no more frequently than once every 5 years. Regardless of your classification, we will conduct an immediate continuing disability review if a question of continuing disability is raised pursuant to paragraph (b) of this section.

(e) *Change in classification of impairment.* If the evidence developed during a continuing disability review demonstrates that your impairment has improved, is expected to improve, or has worsened since the last review, we may reclassify your impairment to reflect this change in severity. A change in the classification of your impairment will change the frequency with which we will review your case. We may also reclassify certain impairments because of improved tests, treatment, and other technical advances concerning those impairments.

(f) *Review after administrative appeal.* If you were found eligible to receive or to continue to receive disability benefits on the basis of a decision by an administrative law judge, the Appeals Council or a Federal court, we will not conduct a continuing disability review earlier than 3 years after that decision unless your case should be scheduled for a medical improvement expected or vocational reexamination diary review or a question of continuing disability is raised pursuant to paragraph (b) of this section.

(g) *Waiver of timeframes.* All cases involving a nonpermanent impairment will be reviewed by us at least once every 3 years unless we, after consultation with the State agency, determine that the requirement should be waived to ensure that only the appropriate number of cases are reviewed. The appropriate number of cases to be reviewed is to be based on such considerations as the backlog of pending reviews, the projected number of new applications, and projected staffing levels. Such waiver shall be given only after good faith effort on the part of the State to meet staffing requirements and to process the reviews on a timely basis. Availability of independent medical resources may also be a factor. A "waiver" in this context refers to our administrative discretion to determine the appropriate number of cases to be reviewed on a State by State basis. Therefore, your continuing disability review may be delayed longer than 3 years following our original decision or other review under certain circumstances. Such a delay would be based on our need to ensure that backlogs, reviews required to be performed by the Social Security Disability Benefits Reform Act of 1984 (Pub. L. 98–460), and new disability claims workloads are accomplished within available medical and other resources in the State agency and that such reviews are done carefully and accurately.

PART 416—[AMENDED]

Part 416 of Chapter III of title 20 of the Code of Federal Regulations is amended to read as follows:

1. The authority citation for Subpart I of Part 416 is revised to read as follows:

Authority: Secs. 1102, 1614, 1631, and 1633 of the Social Security Act; 42 U.S.C. 1302, 1382, and 1383; secs. 2, 5, 6, and 15 of Pub. L. 98–460.

2. Section 416.989 is revised to read as follows:

§ 416.989 We may conduct a review to find out whether you continue to be disabled.

After we find that you are disabled, we must evaluate your impairment(s) from time to time to determine if you are still eligible for payments based on disability. We call this evaluation a continuing disability review. We may begin a continuing disability review for any number of reasons including your failure to follow the provisions of the Social Security Act or these regulations. When we begin such a review, we will notify you that we are reviewing your eligibility for payments, why we are reviewing your eligibility, that in medical reviews the medical improvement review standard will apply, that our review could result in the termination of your payments, and that you have the right to submit medical and other evidence for our consideration during the continuing disability review. In doing a medical review, we will develop a complete medical history of at least the preceding 12 months in any case in which a determination is made that you are no longer under a disability. If this review shows that we should stop your payments, we will notify you in writing and give you an opportunity to appeal. In § 416.990 we describe those events that may prompt us to review whether you continue to be disabled.

3. A new § 416.989a is added to read as follows:

§ 416.989a We may conduct a review to find out whether you continue to be blind.

After we find that you are blind, we must evaluate your impairment(s) from time to time to determine if you are still eligible for payments based on blindness. We call this evaluation a continuing disability review. We may begin a continuing disability review for any number of reasons including your failure to follow the provisions of the Social Security Act or these regulations. When we begin such a review, we will notify you that we are reviewing your eligibility for payments, why we are reviewing your eligibility, that our review could result in the termination of your payments, and that you have the right to submit medical and other evidence for our consideration during the continuing disability review. In doing a medical review, we will develop a complete medical history of at least the preceding 12 months in any case in which a determination is made that you are no longer blind. If this review shows that we should stop your payments, we will notify you in writing and give you an opportunity to appeal. In § 416.990 we describe those events that may prompt us to review whether you continue to be blind.

4. Section 416.990 is revised to read as follows:

§ 416.990 When and how often we will conduct a continuing disability review.

(a) *General.* We conduct continuing disability reviews to determine whether or not you continue to meet the disability or blindness requirements of the law. Payment ends if the medical or other evidence shows that you are not disabled or blind as determined under the standards set out in section 1614(a) of the Social Security Act if you receive benefits based on disability or § 416.986 of this subpart if you receive benefits based on blindness.

(b) *When we will conduct a continuing disability review.* A continuing disability review will be started if—

(1) You have been scheduled for a medical improvement expected diary review;

(2) You have been scheduled for a periodic review (medical improvement possible or medical improvement not expected) in accordance with the provisions of paragraph (d) of this section;

(3) We need a current medical or other report to see if your disability continues. (This could happen when, for example, an advance in medical technology, such as improved treatment for Alzheimer's disease, or a change in vocational therapy or technology raises a disability issue);

(4) You return to work and successfully complete a period of trial work;

(5) Substantial earnings are reported to your wage record;

(6) You tell us that you have recovered from your disability or that you have returned to work;

(7) Your State Vocational Rehabilitation Agency tells us that—

(i) The services have been completed; or

(ii) You are now working; or

(iii) You are able to work;

(8) Someone in a position to know of your physical or mental condition tells us that you are not disabled or blind, that you are not following prescribed treatment, that you have returned to work, or that you are failing to follow the provisions of the Social Security Act or these regulations, and it appears that the report could be substantially correct;

(9) Evidence we receive raises a question as to whether your disability or blindness continues; or

(10) You have been scheduled for a vocational reexamination diary review.

(c) *Definitions.* As used in this section—

"Medical improvement expected diary"—refers to a case which is scheduled for review as a later date because the individual's impairment(s) is expected to improve. Generally, the diary period is set for not less than 6 months or for not more than 18 months. Examples of cases likely to be scheduled for medical improvement expected diary are fractures and cases in which corrective surgery is planned and recovery can be anticipated.

"Permanent impairment"—medical improvement not expected—refers to a case in which any medical improvement in a person's impairment(s) is not expected. This means an extremely severe condition determined on the basis of our experience in administering the disability programs to be at least static, but more likely to be progressively disabling either by itself or by reason of impairment complications, and unlikely to improve so as to permit the individual to engage in substantial gainful activity. The interaction of the individual's age, impairment consequences and the lack of recent attachment to the labor market may also be considered in determining whether an impairment is permanent. Improvement which is considered temporary under §§ 416.994(b)(2)(iv)(D) or 416.994(c)(2)(iv), as appropriate, will not be considered in deciding if an impairment is permanent. Examples of permanent impairments taken from the list contained in our other written guidelines which are available for public review are as follows and are not intended to be all inclusive:

(1) Parkinsonian Syndrome which has reached the level of severity necessary to meet the Listing in Appendix 1 of Subpart P or Part 404 of this chapter.

(2) Amyotrophic Lateral Sclerosis which has reached the level of severity necessary to meet the Listing in Appendix 1 of Subpart P of Part 404 of this chapter.

(3) Diffuse pulmonary fibrosis in an individual age 55 or over which has reached the level of severity necessary to meet the Listing in Appendix 1 of Subpart P of Part 404 of this chapter.

(4) Amputation of leg at hip.

"Nonpermanent impairment"—refers to a case in which any medical improvement in the person's impairment(s) is possible. This means an impairment for which improvement cannot be predicted based on current experience and the facts of the particular case but which is not at the level of severity of an impairment that is considered permanent. Examples of nonpermanent impairments are: regional enteritis, hyperthyroidism, and chronic ulcerative colitis.

"Vocational reexamination diary"—refers to a case which is scheduled for review at a later date because the individual is undergoing vocational therapy, training or an educational program which may improve his or her ability to work so that the disability or blindness requirement of the Law is no longer met. Generally, the diary period will be set for the length of the training, therapy, or program of education.

(d) *Frequency of review.* If your impairment is expected to improve, generally we will review your continuing eligibility for payments based on disability or blindness at intervals from 6 months to 18 months following our most recent decision. Our notice to you about the review of your case will tell you more precisely when the review will be conducted. If your disability is not considered permanent but is such that any medical improvement in your impairment(s) cannot be accurately predicted, we will review your continuing eligibility for payments at least once every 3 years. If your disability is considered permanent, we will review your continuing eligibility for payments no less frequently than once every 7 years but no more frequently than once every 5 years. Regardless of your classification we will conduct an immediate continuing disability review if a question of continuing disability is raised pursuant to paragraph (b) of this section.

(e) *Change in classification of impairment.* If the evidence developed during a continuing disability review demonstrates that your impairment has improved, is expected to improve, or has worsened since the last review, we may reclassify your impairment to reflect this change in severity. A change in the classification of your impairment will change the frequency with which we will review your case. We may also reclassify certain impairments because of improved tests, treatment, and other technical advances concerning those impairments.

(f) *Review after administrative appeal.* If you were found eligible to receive or to continue to receive, payments on the basis of a decision by an administrative law judge, the Appeals Council or a Federal court, we will not conduct a continuing disability review earlier than 3 years after that decision unless your case should be scheduled for a medical improvement expected or vocational reexamination diary review or a question of continuing disability is raised pursuant to paragraph (b) of this section.

(g) *Waiver of timeframes.* All cases involving a nonpermanent impairment will be reviewed by us at least once every 3 years unless we, after consultation with the State agency, determine that the requirement should be waived to ensure that only the appropriate number of cases are reviewed. The appropriate number of cases to be reviewed is to be based on such considerations as the backlog of pending reviews, the projected number of new applications, and projected staffing levels. Such waiver shall be given only after good faith effort on the part of the State to meet staffing requirements and to process the reviews on a timely basis. Availability of independent medical resources may also be a factor. A "waiver" in this context refers to our administrative discretion to determine the appropriate number of cases to be reviewed on a State by State basis. Therefore, your continuing disability review may be delayed longer than 3 years following our original decision or other review under certain circumstances. Such a delay would be based on our need to ensure that backlogs, reviews required to be performed by the Social Security Disability Benefits Reform Act (Pub. L. 98–460), and new disability claims workloads are accomplished within available medical and other resources in the State agency and that such reviews are done carefully and accurately.

[FR Doc. 86–10128 Filed 5–6–86; 8:45 am]
BILLING CODE 4190–11–M

Food and Drug Administration

21 CFR Part 177

[Docket No. 85F–0109]

Indirect Food Additives; Polymers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the food additive regulations for the use of

styrene block polymers with 2-methyl-1-1,3-butadiene in food-contact articles to include an optional chloroform-soluble extractive limitation and to eliminate the conditions of use limitations. This action responds to a petition filed by Shell Oil Co.

DATES: Effective May 7, 1986. Objections by June 7, 1986.

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

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

SUPPLEMENTARY INFORMATION: In a notice published in the **Federal Register** of March 18, 1985 (50 FR 10860), FDA announced that a petition (FAP 5B3853) had been filed by Shell Oil Co., 1025 Connecticut Ave. NW., Suite 200, Washington, DC 20036, proposing that the entry for styrene block polymers with 2-methyl-1,3-butadiene in 21 CFR 177.1810 be amended to (1) allow for an increase in the maximum extractable fraction in distilled water and 50 percent ethanol; (2) include chloroform-soluble extractives limitations; and (3) eliminate the conditions of use limitations.

The petitioner requested an increase in the maximum extractable fraction specifications for distilled water and 50 percent ethanol because the processing water it uses in the production of the styrene block polymers causes an accumulation of salts and hydrated salts in the extractable fractions. The level of these salts exceeds the current extraction specifications. In addition, the petitioner requested that chloroform-soluble extractives specifications be established for use with the increased maximum extractable fraction specifications.

FDA has evaluated the data in the petition and believes that the current maximum extractable fraction specifications for distilled water and 50 percent ethanol do not need to be changed. Instead, the agency is adopting optional chloroform-soluble extractives specifications for use when the maximum extractable fraction specifications for distilled water and 50 percent ethanol cannot be met.

Based on the data in the petition, the agency agrees with the petitioner that the reason that the petitioner's polymer does not meet the current specifications for maximum extractives in water and 50 percent ethanol is the presence of salts and hydrated salts in the firm's processing water.

The agency finds that the optional chloroform-soluble extractives specifications requested by the petition will ensure the safe use of these polymers because the chloroform extraction step will extract any residual organic material derived from the polymer while leaving the salts and hydrated salts in the distilled water and 50 percent ethanol extracts. FDA, therefore, concludes that adoption of optional chloroform-soluble extractives specifications obviates the petitioner's request to increase the maximum extractable fraction specifications for distilled water and 50 percent ethanol. The agency consequently is adding optional specifications in § 177.1810(b)(2) for chloroform-soluble extractives that may be used when the specifications for distilled water and 50 percent ethanol cannot be met.

In addition, as the petitioner also requested, the agency is eliminating the conditions of use temperature limitations that have been cross-referenced in the regulation from 21 CFR 176.170(c), Table 2. The agency has reviewed the data submitted in this petition and in previous petitions on this regulation concerning the conditions of use of this additive. The data reveal that the petitioner has carried out extractions on the additive at the time and temperature conditions specified for use condition A, described in Table 2 of § 176.170(c). The petitioner, therefore, has submitted data for the worst-case condition of use of the additive. Consequently, there is no reason to restrict use of the additive to conditions of use D, E, F, and G, as currently provided for in the entry for this additive in § 177.1810(b)(2). The agency is thus removing the conditions of use temperature limitations in this final rule.

FDA concludes that the amendments, as set forth below, will assure the safe use of the additive.

Additionally, FDA is amending the regulation to include both metric and English units in the regulation.

In accordance with § 171.1(h) (21 CFR 171.1(h)), the petition and the documents that FDA considered and relied upon in reaching its decision to approve the petition are available for inspection at the Center for Food Safety and Applied Nutrition (address above) by appointment with the information contact person listed above. As provided in 21 CFR 171.1(h), the agency will delete from the documents any materials that are not available for public disclosure before making the documents available for inspection.

The agency has determined under 21 CFR 25.24(a)(9) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

Any person who will be adversely affected by this regulation may at any time on or before June 7, 1986 file with the Dockets Management Branch (address above) written objections thereto. Each objection shall be separately numbered, and each numbered objection shall specify with particularity the provisions of the regulation to which objections is made and the grounds for the objection. Each numbered objection on which a hearing is requested shall specifically so state. Failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held. Failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Three copies of all documents shall be submitted and shall be identified with the docket number found in brackets in the heading of this document. Any objections received in response to the regulation may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

List of Subjects in 21 CFR Part 177

Food additives, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Director, Center for Food Safety and Applied Nutrition, Part 177 is amended as follows:

PART 177—INDIRECT FOOD ADDITIVES: POLYMERS

1. The authority citation for Part 177 continues to read as follows:

Authority: Secs. 201(s), 409, 72 Stat. 1784–1788 as amended (21 U.S.C. 321(s), 348); 21 CFR 5.10 and 5.61.

2. In § 177.1810 by revising the table in paragraph (b) and by revising paragraph (c)(3) to read as follows:

§ 177.1810 Styrene block polymers.

* * * * *

(b) * * *

Styrene block polymers	Molecular weight (minimum)	Solubility	Glass transition points	Maximum extractable fraction in distilled water at specified temperatures, times, and thicknesses	Maximum extractable fraction in 50 percent ethanol at specified temperatures, times, and thicknesses
1. (i) Styrene block polymers with 1,3-butadiene; for use as articles or as components of articles that contact food of Types I, II, IV–B, VI, VII–B, and VIII identified in Table 1 in § 176.170(c) of this chapter under conditions of use D, E, F, and G described in Table 2 in § 176.170(c) of this chapter.	29,000	Completely soluble in toluene.	−98 °C (−144 °F) to −71 °C (−96 °F) and 86 °C (187 °F) to 122 °C (252 °F).	0.0039 mg/cm² (0.025 mg/in²) of surface at reflux temperature for 30 min on a 0.19 cm (0.075 in) thick sample.	0.002 mg/cm² (0.01 mg/in²) of surface at 66 °C (150 °F) for 2 hr on a 0.19 cm (0.075 in) thick sample.
(ii) Styrene block polymers with 1,3-butadiene; for use as components of pressure-sensitive adhesives that contact food of Types I, II, IV–B, VI, VII–B, and VIII identified in Table 1 in § 176.170(c) of this chapter under conditions of use C, D, E, F and G described in Table 2 in § 176.170(c) of this chapter, provided the pressure-sensitive adhesives be applied only to closure tapes for sealing containers having a capacity of not less than 160 cc (5.5 fluid ounces) and that the area of the adhesive exposed to food shall not exceed 4.03 cm² (0.625 in²). The pressure-sensitive adhesive may contain terpene resins as identified in § 175.125(b)(2) of this chapter.	29,000	do	do	do	Do.
2. Styrene block polymers with 2-methyl-1,3-butadiene; for use as articles or as components of articles that contact food of Types I, II, IV–B, VI, VII–B, and VIII identified in Table 1 in § 176.170(c) of this chapter.	29,000	do	−65 °C (−85 °F) to −47 °C (−53 °F) and 86 °C (187 °F) to 122 °C (252 °F).	0.002 mg/cm² (0.01 mg/in²) of surface at reflux temperature for 2 hr on a 0.071 cm (0.028 in) thick sample. (Optionally, maximum net residue soluble in chloroform shall not exceed 0.00020 mg/cm² (0.0013 mg/in²) of surface.).	0.002 mg/cm² (0.01 mg/in²) of surface at 66 °C (150 °F) for 2 hr on a 0.071 cm (0.028 in) thick sample. (Optionally, maximum net residue soluble in chloroform shall not exceed 0.00040 mg/cm² (0.0025 mg/in²) of surface.)
3. Styrene block polymers with 1,3-butadiene, hydrogenated: for use as articles or as components of articles that contact food of Types I, II, IV–B, VI, VII–B, and VIII identified in Table 1 in § 176.170(c) of this chapter.	16,000	do	−50 °C (−58 °F) to −30 °C (−22 °F) and 92 °C (198 °F) to 98 °C (208 °F).	0.002 mg/cm² (0.01 mg/in²) of surface at reflux temperature for 2 hr on a 0.071 cm (0.028 in) thick sample.	0.002 mg/cm² (0.01 mg/in²) of surface at 66 °C (150 °F) for 2 hr on a 0.071 cm (0.028 in) thick sample.

(c) * * *

(3) *Maximum extractable fractions in distilled water and 50 percent ethanol and the maximum net residue solubles in chloroform.* The maximum extractable fractions in distilled water and 50 percent ethanol, and the maximum net residue solubles in chloroform, shall be determined in accordance with § 176.170(d)(3) of this chapter using a sandwich form of the finished copolymer of the specified thickness and for the time and temperature specified in paragraph (b) of this section.

* * * * *

Dated: April 29, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–10167 Filed 5–6–86; 8:45 am]

BILLING CODE 4160–01–M

21 CFR Parts 182 and 186

[Docket No. 78N–0032]

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

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is affirming that tall oil is generally recognized as safe (GRAS) as an indirect human food ingredient for use in cotton and cotton fabric used in dry food packaging. The safety of this ingredient has been evaluated under the comprehensive safety review conducted by the agency.

EFFECTIVE DATE: June 7, 1986.

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

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

Subsequently, in the **Federal Register** of October 2, 1985 (50 FR 40204), FDA published a tentative final rule in which FDA proposed to affirm that tall oil is GRAS for use in cotton and cotton fabrics used in dry packaging, without the specifications listed in the June 2, 1978, proposal.

No comments were received in response to the tentative final rule on tall oil. The agency is, therefore, adopting § 186.1557 without change.

The agency has previously determined under 21 CFR 25.24(b)(7) (April 26, 1985; 50 FR 16636) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. No new information or comments have been received that would affect the agency's previous determination. Therefore, neither an environmental assessment nor an environmental impact statement is required.

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

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

The agency's findings of no major economic impact and no significant impact on a substantial number of small entities, and the evidence supporting these findings, are contained in a threshold assessment which may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, Rm. 4–62, 5600 Fishers Lane, Rockville, MD 20857.

List of Subjects

21 CFR Part 182

Food ingredients, Species and flavorings.

21 CFR Part 186

Food ingredients, Food packaging.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Food Safety and Applied Nutrition, Parts 182 and 186 are amended as follows:

PART 182—SUBSTANCES GENERALLY RECOGNIZED AS SAFE

1. The authority citation for CFR Part 182 is revised to read as follows:

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

§ 182.70 [Amended]

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

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

3. The authority citations under the sections are removed and the authority citation for 21 CFR Part 186 is revised to read as follows:

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

4. Part 186 is amended by adding new § 186.1557 to read as follows:

§ 186.1557 Tall oil.

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

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

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

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

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

Dated: April 29, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–10168 Filed 5–6–86; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

23 CFR Parts 625, 626, 630, 645, 650, 655, 666, 810, and 922

Design Standards for Highways; Technical Amendments

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Final rule.

SUMMARY: The Federal Highway Administration (FHWA) is updating the list of citations to publications which are incorporated by reference in 23 CFR Part 625 for application on Federal-aid projects. The list includes citations to publications containing standards, specifications, policies, guides, and references which have been approved for application in the geometric and structural design of federally funded highways. The revisions amend the regulations by: (1) Updating citations to reflect current publication dates and titles; (2) removing obsolete documents which are currently cited; (3) relocating citations to the appropriate section; (4) correcting citations to incorporate prior rulemaking actions; and (5) redesignating and adding certain publications that contain guidance and informational material to a new section. While the revisions are nonsubstantive in nature, they will serve to clarify the existing rule which was last completely updated in 1978.

EFFECTIVE DATE: May 7, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Seppo I. Sillan, Chief, Geometric Design Branch, Office of Engineering (202) 426–0312 of Mr. Michael J. Laska, Office of the Chief Counsel (202) 426–0762, Federal Highway Administration, 400 Seventh Street SW., Washington, DC 20590. Office hours are from 7:45 a.m. to 4:15 p.m., ET, Monday through Friday, except legal holidays.

SUPPLEMENTARY INFORMATION: The standards, specifications, policies, guides, and references (publications) that have been approved by the FHWA for application on all Federal-aid highway projects have been incorporated by reference in 23 CFR Part 625. Periodically, the publications that are incorporated by reference in Part 625 are reviewed by the initiating organizations. As a result of these reviews, certain publications are updated or replaced with new editions. For publications which are updated or replaced with new editions, the citations to the publications referenced in Part 625 must be revised.

In addition, as the title to § 625.3 indicates, the FHWA has not differentiated, for the purpose of incorporation by reference, between publications that contain standards and policies and those that contain guides and references. In order to accurately reflect a publication list which differentiates between publications establishing Federal standards, and publications containing guidance and informational material, a new section entitled "Guides and references"

(references) is being added to Part 625. As a result, the incorporation by reference will be removed for certain publications which are guidance and informational material. The citations to these publications will be transferred to the new section for references. Other informational publications which are valuable in attaining good design and uniformity will be added to the new section.

In addition to citations being added, updated, or redesignated, other technical amendments to Part 625 are required in order to maintain a current and accurate listing of publications which are approved for application on Federal-aid projects. The technical amendments contained in this document include: The deletion of citations to publications which are obsolete or no longer applicable; the relocation of citations to a more appropriate section; and the correction of citations to incorporate actions which have been the subject of prior rulemaking actions. The following actions are being taken in order to update Part 625 to reflect current practice.

1. General—Former Section 625.3 "Standards, specifications, policies, guides and references."

Section 625.3 has been redesignated to read Section 625.4 "Standards, policies, and standard specifications."

This section will list the citations to those publications that are incorporated by reference and contain specific criteria and controls for the design of highways.

A portion of the introductory text included in former § 625.3 was added at 50 FR 14914, April 15, 1985. The additional text specified where and how copies of the publications cited in Part 625 can be inspected, copied, or purchased. This supplemental information will be placed in the appendix.

A number of publications incorporated by reference in this section have been replaced with updated editions. The reference citations for these publications are being revised to reflect the dates and titles of the most current editions.

2. Revisions—Former § 625.3(a) "Roadway and appurtenances."

Former § 625.3(a)(5) "A Policy on the Accommodation Of Utilities on Freeway Rights-of-Way, AASHO 1969" (Policy) is being replaced to include the current citation to the Policy which is incorporated by reference in the final rule on accommodation of utilities published on May 15, 1985 (50 FR 20351). The reference will now read "Accommodation of Utilities, FHWA, 23 CFR Part 645, Subpart B."

Former § 625.3(a)(10) "AASHTO Interim Guide for Design of Pavement Structures—1972 Chapter III Revised, 1981, AASHTO" (Guide) is being replaced by a reference to 23 CFR Part 626. Part 626 sets forth the pavement design policy for Federal-aid highway projects and currently approves the Guide for Federal application. The reference will now read "Pavement Design, FHWA, 23 CFR Part 626."

3. Deletions—Former § 625.3(a), "Roadway and appurtenances."

Former § 625.3(a)(9), "Policy on Interstate System Projects, FHWA, FHPM 6–3–2–4," is being deleted because enactment of the Federal-aid Highway Act of 1981 redefined the term "Interstate Completion"; therefore, the policy contained in the Federal-aid Highway Program Manual (FHPM) section is no longer required to be applied to Interstate System projects. The section will be retained in the FHPM for informational purposes.

Former § 625.3(a)(16) "Safer Off-System Roads, FHWA, 23 CFR Part 922" is being deleted because the program is no longer being funded. Since the Safer Off-System Road program is no longer being appropriated funding, no new projects have been initiated and existing projects are being completed and closed out. For this reason, the reference is obsolete and being removed.

4. Relocation—Former § 625.3(c) "Traffic control" and Part 655 "Traffic Operations."

The references in former § 625.3(c) "Traffic control" address the subject areas of traffic control, traffic signs, traffic surveillance, motorist aid systems, etc. The primary regulations dealing with these subject areas are located in Part 655 "Traffic Operations." In order to more accurately reflect regulatory material with the appropriate references, the publications listed in § 625.3(c) are transferred to Part 655. Former § 625.3(c)(7), "National Standards for Signs Giving Specific Information in the Interest of the Traveling Public, FHWA, 23 CFR Part 655, Subpart C" is being deleted because the standards have been incorporated in the "Manual on Uniform Traffic Control Devices for Streets and Highways, FHWA, 1978, as amended January 1985" which is incorporated by reference and will be located in § 655.601(a).

5. Redesignations and additions—New § 625.5 "Guides and references."

A new § 625.5 entitled "Guides and references" is being added to Part 625 in order to give notice to the public of those publications used or referred to by the FHWA and the States in the design of highways. The publications listed in this section are not incorporated by reference because they are only guidance in character. After a review of the publications currently incorporated by reference in Part 625, the following are transferred from former § 625.3 and placed in new § 625.5 as a guide or informational reference.

Redesignations to 625.5(a), "Roadway and appurtenances."

—An Informational Guide for Roadway Lighting, AASHTO, 1984.
—Highway Design and Operational Practices Related to Highway Safety, Report of the Special AASHTO Traffic Safety Committee, AASHTO, 1974.
—Guide for Selecting, Locating, and Designing Traffic Barriers, AASHTO, 1977. Barriers classified as either operational or experimental, except Type MB1 median barriers, are acceptable for Federal-aid projects.
—Skid Accident Reduction Program, FHWA, FHPM 6–2–4–3.
—Guidelines for Skid Resistant Pavement Design, AASHTO 1976.

Redesignation to 625.5(b), "Bridges and structures."

—A Guide for Protective Screening of Overpass Structures, AASHO, 1969.

Redesignations to 625.5(d), "Other."

—Transportation Glossary, AASHTO, 1983.
—A Guide on Safety Rest Areas for the National System of Interstate and Defense Highways, AASHO, 1968.

In order for Part 625 to reflect a complete and accurate list of guides and references pertinent to highway design, the following publications are being added to new § 625.5.

Additions to 625.5(a), "Roadway and appurtenances."

—An Informational Guide on Fencing Controlled Access Highways, AASHO, 1967.
—An Informational Guide for Preparing Private Driveway Regulations for Major Highways, AASHO, 1960.
—Highway Capacity Special Report 209, Highway Capacity Manual, Transportation Research Board, 1985.
—Handbook of Highway Safety Design and Operating Practices, FHWA, 1978.
—Guidelines on Pavement Management, AASHTO, 1985.

Additions to 625.5(b), "Bridges and structures."

—Manual for Maintenance Inspection of Bridges, AASHTO, 1983.
—Guide Specifications for Fracture Critical Non-Redundant Steel Bridge Members, AASHTO, 1978, and Interim Specifications, Bridges, AASHTO, 1981.

—Guide Specifications for Horizontally Curved Highway Bridges, 1980, and Interim Specifications, Bridges, AASHTO, 1981 and 1982.
—Guide Specifications for Seismic Design of Highway Bridges, AASHTO, 1983.
—Highway Drainage Guidelines, Volumes I through VI, AASHTO, 1979, Volume VII, AASHTO, 1982.

Additions to 625.5(c), "Materials."

—Guide Specifications for Highway Construction, AASHTO, 1979.

Additions to 625.5(d), "Other."

—A Guide for Erecting Mailboxes on Highways, AASHTO, 1984.
—Guide for Development of New Bicycle Facilities, AASHTO, 1981.

6. Elimination—Section 625.7 "Special considerations."

This section establishes the requirement for curb ramps on pedestrian crosswalks for physically handicapped persons. Since this provision was added to section 625, regulations on pedestrian and bicycle accommodations contained in Part 652 were extensively revised (March 22, 1984; 49 FR 10662). Because § 652.13(b) contains the curb ramp requirement, § 625.7 is considered duplicative and is deleted.

Regulatory Impact

The FHWA has determined that this document does not contain a major rule under Executive Order 12291 or a significant regulation under the regulatory policies and procedures of the Department of Transportation. The revisions contained in these amendments are primarily editorial in nature. For publications which have become obsolete, the citations have been deleted. For publications which have been replaced with new editions, the citations have been updated to reflect current publication dates and titles. In some cases, the current editions contain minor changes in content, but the overall basic geometric design criteria remains essentially the same. For those publications that are being added, the new material is not in fact a standard or requirement. These new nonregulatory publications simply provide guidance and information for use at the discretion of the designer. Since the revisions included in this document are technical in nature and make no substantive changes to the regulations, the FHWA finds good cause to make the amendments final without the opportunity for comment and without a 30-day delay in effective date required by the Administrative Procedure Act. Notice and opportunity for comment are not required under the regulatory policies and procedures of the Department of Transportation because it is not anticipated that such action would result in the receipt of useful information due to the technical nature of the document. Accordingly, the amendments are effective upon publication.

Since these amendments do not alter the basic design criteria and the burdens imposed on the States are not affected, the impact on the overall highway program is negligible. Therefore, a full regulatory evaluation has not been prepared. For the foregoing reasons, and under the criteria of the Regulatory Flexibility Act, the FHWA hereby certifies that this action will not have a significant economic impact on a substantial number of small entities.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

List of Subjects in 23 CFR Parts 625 and 655

Design standards, Grant programs—transportation, Highways and roads, Incorporation by reference, Signs and symbols, Traffic regulations.

In consideration of the foregoing, the Federal Highway Administration is amending Chapter I of Title 23, Code of Federal Regulations, as set forth below.

Issued on: May 2, 1986.

R.A. Barnhart,

Federal Highway Administrator, Federal Highway Administration.

The FHWA hereby amends Chapter I of Title 23, Code of Federal Regulations, as follows:

1. Part 625 is revised to read as follows:

PART 625—DESIGN STANDARDS FOR HIGHWAYS

Sec.
625.1 Purpose.
625.2 Policy.
625.3 Application.
625.4 Standards, policies, and standard specifications.
625.5 Guides and references.

Appendix A—Documents cited in Part 625.

Authority: 23 U.S.C. 109, 315, and 402; 49 CFR 1.48(b).

§ 625.1 Purpose.

To designate those standards, specifications, policies, guides and references that are acceptable to the Federal Highway Administration (FHWA) for application in the geometric and structural design of highways.

§ 625.2 Policy.

(a) Plans and specifications for proposed Federal-aid highway projects shall provide for a facility that will—

(1) Adequately meet the existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance; and

(2) Be designed and contracted in accordance with standards best suited to accomplish the foregoing objectives and to conform to the particular needs of each locality.

(b) The development and overall management of highway facilities must be considered as a continuing program. This process of highway management commences with planning and extends through design, construction, maintenance, and operation. To assure a continuing acceptable level of safe traffic service, it is essential to provide for adequate maintenance and periodic resurfacing, restoration, and rehabilitation (RRR) throughout the life of the highway. The RRR work is defined as work undertaken to extend the service life of an existing highway and enhance highway safety. This includes placement of additional surface material and/or other work necessary to return an existing roadway, including shoulders, bridges, the roadside, and appurtenances to a condition of structural or functional adequacy. The RRR work may include upgrading of geometric features, such as minor roadway widening, flattening curves, or improving sight distances. The RRR work is an essential part of any highway program, and each State and local agency should provide for these types of improvements in each annual highway program.

(c) An important goal of the FHWA is to provide the highest practical and feasible level of safety for people and property associated with the Nation's highway transportation systems and to reduce highway hazards and the resulting number and severity of accidents on all the Nation's highways. Accordingly, the only constraint on the application of Federal-aid funds to RRR work is that they must be used to provide a facility that adequately meets existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance, and acceptable levels of community and environmental impact. The RRR projects shall be designed and constructed in a manner that will enhance highway safety and accomplish the foregoing objectives according to the particular needs of each State and locality.

§ 625.3 Application.

(a) The standards, policies, and standard specifications contain specific criteria and controls for the design of highways. Deviations from specific minimum values therein are to be handled in accordance with procedures in paragraph (f) of this section. If there is a conflict between criteria in the documents enumerated in § 625.4 of this part, the latest listed standard, policy, or standard specification will govern.

(b) The guides and references (handbooks, reports, etc.) include information and general controls that are valuable in attaining good design and in promoting uniformity. They are intended to provide general program direction. Project-by-project deviations from the criteria in guides and references do not require handling as exceptions under paragraph (f) of this section.

(c) Application of FHWA regulations, although cited in § 625.4 of this part as standards, policies, and standard specifications, shall be as set forth therein.

(d) This regulation does not establish Federal standards for work that is not federally funded; however, the safety related criteria of the referenced documents are established as goals for developing State and local safety programs for all public highways as required by Highway Safety Program Standard 12, 23 CFR 1204.4.

(e) The Division Administrator shall determine the applicability of the roadway geometric design standards to traffic engineering and safety projects for signing, marking, signal installation, and traffic barriers which include very minor or no roadway work. Formal findings of applicability are expected only as needed to resolve controversies.

(f) Exceptions. (1) Approval within the delegated authority provided by FHWA Order 1-1(2) may be given on a project basis to designs which do not conform to the minimum criteria as set forth in the standards, policies, and standard specifications for:

(i) Experimental features on projects; and

(ii) Projects where conditions warrant that exceptions be made.

(2) The determination to approve a project design that does not conform to the minimum criteria is to be made only after due consideration is given to all project conditions such as maximum service and safety benefits for the dollar invested, compatibility with adjacent sections of roadway and the probable time before reconstruction of the section due to increased traffic demands or changed conditions.

§ 625.4 Standards, policies, and standard specifications.

(a) *Roadway and appurtenances.* (*1,2*) (1) A Policy on Geometric Design of Highways and Streets, AASHTO 1984.(*3*)

(2) A Policy on Design Standards—Interstate System, AASHO 1967.(*3*)

(3) The geometric design standards for resurfacing, restoration, and rehabilitation (RRR) projects on highways other than freeways shall be the procedures and the design or design criteria established for individual projects, groups of projects, or all nonfreeway RRR projects in a State, and as approved by the FHWA. The other geometric design standards in this section do not apply to RRR projects on highways other than freeways, except as adopted on an individual State basis. The RRR design standards shall reflect the consideration of the traffic, safety, economic, physical, community, and environmental needs of the projects.

(4) A Policy on U-Turn Median Openings on Freeways, AASHO 1960.(*3*)

(5) A Policy on Access Between Adjacent Railroads and Interstate Highways, AASHO 1960.(*3*)

(6) Erosion and Sediment Control on Highway Construction Projects, FHWA, 23 CFR Part 650, Subpart B.

(7) Location and Hydraulic Design of Encroachments on Flood Plains, FHWA, 23 CFR Part 650, Subpart A.

(8) Water Supply and Sewage Treatment at Safety Rest Areas, FHWA, 23 CFR Part 650, Subpart E.

(9) Procedures for Abatement of Highway Traffic Noise and Construction Noise, FHWA, 23 CFR Part 772.

(10) Accommodation of Utilities, FHWA, 23 CFR Part 645, Subpart B.

(11) Pavement Design, FHWA, 23 CFR Part 626.

(b) *Bridges and structures.* (1) Standard Specifications for Highway Bridges, Thirteenth Edition, AASHTO 1983, and Interim Specifications, Bridges, AASHTO 1984 and 1985.(*3*)

(2) Standard Specifications for Movable Highway Bridges, AASHTO 1978.(*3*)

(3) Standard Specifications for Welding of Structural Steel Highway Bridges, Third Edition, AASHTO 1981.(*3*)

(4) Reinforcing Steel Welding Code AWS D 1.4-79.(*4*)

(5) Standard Specifications for Structural Supports for Highway Signs, Luminaries, and Traffic Signals, AASHTO 1975.(*3*)

(c) *Materials.* (1) General Materials Requirements, FHWA, 23 CFR Part 635, Subpart D.

(2) Standard Specifications for Transportation Materials and Methods of Sampling and Testing, Part I and Part II, AASHTO 1982.(*3*)

(3) Sampling and Testing of Materials and Construction, FHWA, 23 CFR Part 637, Subpart B.

§ 625.5 Guides and references.

The following are citations to publications which are primarily informational or guidance in character and serve to assist the public in knowing those materials which are considered by FHWA to provide valuable information in attaining good design.

(a) *Roadway and appurtenances.* (1) An Informational Guide for Roadway Lighting, AASHTO 1984.(*3*)

(2) Highway Design and Operational Practices Related to Highway Safety, Report of the Special AASHTO Traffic Safety Committee, AASHTO 1974.(*3*)

(3) Guide for Selecting, Locating and Designing Traffic Barriers, AASHTO 1977.(*3*) Barriers classified as either operational or experimental, except Type MB 1 median barriers, are acceptable for Federal-aid projects.

(4) An Informational Guide on Fencing Controlled Access Highways, AASHO 1967.(*3*)

(5) An Informational Guide for Preparing Private Driveway Regulations for Major Highways, AASHO 1960.(*3*)

(6) Highway Capacity Special Report 209, Highway Capacity Manual, Transportation Research Board 1985.(*5*)

(7) Guidelines on Pavement Management, AASHTO 1985.

(8) Handbook of Highway Safety Design and Operating Practices, FHWA 1978.(*2*)

(9) Skid Accident Reduction Program, FHWA, FHPM 6-2-4-3.(*2*)

(10) Guidelines for Skid Resistant Pavement Design, AASHTO 1976.(*3*)

(b) *Bridges and structures.* (1) A Guide for Protective Screening of Overpass Structures, AASHO 1969.(*3*)

(2) Manual for Maintenance Inspection of Bridges, AASHTO 1983.(*3*)

(3) Guide Specifications for Fracture Critical Non-Redundant Steel Bridge Members, AASHTO 1978, and Interim Specifications, Bridges, AASHTO 1981.(*3*)

(4) Guide Specifications for Horizontally Curved Highway Bridges

[2] For footnotes to this part, see Appendix A.

1980, and Interim Specifications, Bridges, AASHTO 1981 and 1982.(3)

(5) Guide Specifications for Seismic Design of Highway Bridges, AASHTO 1983.(3)

(6) Highway Drainage Guidelines, Volumes I through VI, AASHTO 1979, Volume VII, AASHTO 1982.(3)

(c) *Materials.* Guide Specifications for Highway Construction, AASHTO 1979.(3)

(d) *Other.* (1) Transportation Glossary, AASHTO 1983.(3)

(2) A Guide for Erecting Mailboxes on Highways, AASHTO 1984.(3)

(3) A Guide on Safety Rest Areas for the National System of Interstate and Defense Highways, AASHO 1968.(3)

(4) Guide for Development of New Bicycle Facilities, AASHTO 1981.(3)

Appendix A—Documents Cited in Part 625

1. The design standards listed in § 625.4 are incorporated by reference and are on file at the Office of the Federal Register in Washington, DC.

2. These documents may be reviewed at the Department of Transportation Library, Room 2200, DOT Headquarters Building, 400 7th Street, SW., Washington, DC 20590. These documents are also available for inspection and copying as provided in 49 CFR Part 7, Appendix D.

3. American Association of State Highway and Transportation Officials, Suite 225, 444 North Capitol Street, NW., Washington, DC 20001.

4. American Welding Society, 2501 Northwest 7th Street, Miami, Florida 33125.

5. Transportation Research Board, 2101 Constitution Avenue, NW., Washington, DC 20418.

PART 655—TRAFFIC OPERATIONS

Subpart F—Traffic Control Devices on Federal-Aid and Other Streets and Highways [Amended]

2. The authority citation for Part 655 continues to read as follows:

Authority: 23 U.S.C. 109(d), 114(a), 217, 315, 402(a); 23 CFR 1204.4; and 49 CFR 1.48(b).

3. Part 655, Subpart F is amended by revising § 655.601 to read as follows:

§ 655.601 Purpose.

To prescribe the policies and procedures of the Federal Highway Administration (FHWA) to obtain basic uniformity of traffic control devices on all streets and highways in accordance with the following references that are approved by the FHWA for application on Federal-aid projects:

(a) Manual on Uniform Traffic Control Devices for Streets and Highways, FHWA, 1978, as amended January 1985. (This publication is incorporated by reference and is on file at the Office of the Federal Register in Washington, DC. It may be purchased from the Superintendent of Documents, U.S. Government Printing Office (GPO), Washington, DC 20402 and has Stock No. 050-001-81001-8. It is available for inspection and copying as prescribed in 49 CFR Part 7, Appendix D).

(b) Standard Alphabets for Highway Signs, FHWA, 1966 Edition, Reprinted May 1972. (This publication is incorporated by reference and is on file at the Office of the Federal Register in Washington, DC. This document is available for inspection and copying as provided in 49 CFR Part 7, Appendix D).

(c) Traffic Surveillance and Control, FHWA, 23 CFR Part 655, Subpart D.

(d) Motorist Aid Systems, FHWA, 23 CFR Part 655, Subpart G.

(e) Pavement Marking Demonstration Program, FHWA, 23 CFR Part 920.

Technical Amendments

Due to the revision of 23 CFR Part 625 and the transfer of references from former § 625.3(c) to Part 655, Subpart F, the following technical amendments are necessary to correct citations found in other parts of title 23, CFR, and are set forth below.

PART 626—[AMENDED]

4. In § 626.5, paragraph (a) is amended by removing footnote number one and adding the following parenthetical text after the first full sentence which ends with the words "highway projects.":

§ 626.5 Policy.

(a) * * * (This publication is incorporated by reference and is on file at the Office of the Federal Register in Washington, DC. It is available for inspection from the FHWA Washington Headquarters and all FHWA Division and Regional Offices as prescribed in 49 CFR Part 7, Appendix D.)

* * * * *

PART 630—[AMENDED]

Subpart J—[Amended]

5. In § 630.1004, the citation in the footnote is corrected by removing "23 CFR 625.3" and inserting in lieu thereof "23 CFR 655, Subpart F."

PART 645—[AMENDED]

Subpart B—[Amended]

6. In § 645.207, paragraph (b) is amended by removing the sentence which reads, "This publication is incorporated by reference and is on file at the Office of the Federal Register in Washington, D.C."

PART 650—[AMENDED]

Subpart C—[Amended]

7. In § 650.301, the paragraph is amended by removing the words "Highway Definitions Manual" and inserting in lieu thereof the words "Transportation Glossary."

PART 650—[AMENDED]

Subpart F—[Amended]

8. In § 650.605(a), the references are corrected by removing "23 CFR 625.5" and "23 CFR 625.3" and inserting in lieu thereof "23 CFR 625.3" and "23 CFR 625.4", respectively.

PART 655—[AMENDED]

Subpart F—[Amended]

9. In § 655.603, paragraph (e) is revised to read as follows:

§655.603 Standards.

* * * * *

(e) *Specific information signs.* Standards for specific information signs are contained in the MUTCD.

PART 666—[AMENDED]

§ 666.9 [Amended]

10. In § 666.9, the AASHO publication "Highway Definition" has been superseded and removed from incorporation by reference in title 23, CFR, therefore § 666.9 is amended by removing the title "Highway Definitions" and inserting in its place "Transportation Glossary." Also, in footnote number three, the title is similarly changed and the second sentence concerning incorporation by reference is removed.

PART 810—[AMENDED]

§ 810.4 [Amended]

11. In § 810.4(b)(4), footnote number one is corrected by removing the citation "23 CFR 625.3" and inserting in lieu thereof "23 CFR 655, Subpart F."

PART 922—[AMENDED]

§ 922.13 [Amended]

12. In § 922.13(c), footnote number one is corrected by removing the citation "23 CFR 625.3(c)(1)" and inserting in lieu thereof "23 CFR 655, Subpart F."

[FR Doc. 86-10347 Filed 5-6-86; 8:45 am]

BILLING CODE 4910-22-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Public and Indian Housing

24 CFR Part 990

[Docket No. R-86-1126; FR-1775]

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

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

ACTION: Final rule.

SUMMARY: This final rule establishes new conditions under which a Public Housing Agency (including an Indian Housing Authority) may use a Projected Occupancy Percentage of less than 97% in computing its per-unit Operating Income Level under the Performance Funding System. A PHA that is defined as a low occupancy PHA is required to have a HUD-approved Comprehensive Occupancy Plan in order to use a Projected Occupancy Percentage of less than 97%. The Plan includes yearly, PHA-wide occupancy goals. A PHA that is defined as a low occupancy PHA may use its yearly, PHA-wide occupancy goal, rather than 97%, to compute its Operating Income Level if it has a HUD-approved Comprehensive Occupancy Plan. A PHA with a high occupancy rate (equal to or greater than 97%) may use 97% as its Projected Occupancy Percentage in computing its per-unit Operating Income Level. These changes encourage a PHA to maximize its total income by reducing its vacancies. They eliminate provisions in the the former rule that created disincentives for reducing vacancy rates.

DATES: Effective date: June 13, 1986.

FOR FURTHER INFORMATION CONTACT: Nancy S. Chisholm, Director, Policy Staff, Room 4118, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-5000, telephone (202) 755-6713. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION:

Background

On June 24, 1985, the Department published an interim rule (50 FR 25951). (A correction and extension of comment period was published at 50 FR 40196 on October 2, 1985.) The interim rule which became effective on August 2, 1985, established new conditions under which a Public Housing Agency (including an Indian Housing Authority) may use a Projected Occupancy Percentage of less than 97% in computing its per-unit Operating Income Level under the Performance Funding System (PFS).

Discussion of Public Comments and Changes Made in the Final Rule

The Department received nine public comments in response to the interim rule. (The interim rule, itself, followed a proposed rule published at 49 FR 22663 on May 31, 1985. For the response to the 43 public comments on the proposed rule see the preamble to the interim rule at 50 FR 25954 to 25957.)

There follows a discussion of the public comments on the interim rule and of the changes in the final rule made in response to the public comment.

General Comments

While most of the commenters perceived the interim rule to be a significant improvement over the proposed rule, certain commenters raised generalized objections to either the substance of the rule or its method of development.

One commenter characterized the rule as a major structural change in the calculation of the PFS which contravened former OMB Director David Stockman's commitment to Senator Jake Garn and Congressman Fernand St Germain that there would be no major changes in the PFS until Congress had the opportunity to draft a new authorization bill (an issue that also was raised with respect to the proposed rule). Some commenters reiterated another objection made to the proposed rule, namely, that the rulemaking constituted a piecemeal approach and should be made as part of a comprehensive revision of the PFS. Certain other changes to the PFS identified as desirable as part of an overall revision to the PFS included: Providing adjustments to the Allowable Expense Level beyond the base year, developing a system for funding costs that are beyond the PHA's control and establishing a "peer review" process of HUD decisions (including PFS-related decisions) that have a major impact on PHAs and the public.

The Department addressed similar issues in the preamble to the interim rule beginning at 50 FR 25954. The Department continues to believe its position on these issues is sound. This rulemaking does not effect fundamental changes or structural program reforms, but rather is designed to correct identified deficiences in existing regulations. As stated in the preamble to the interim rule, "the rule addresses a discrete problem that does not need to be merged with other issues. The Department believes that the public interest is best served by implementing this rule quickly."

One commenter criticized the lack of any specific commitment of money by HUD to match PHA initiatives for reducing vacancies. This commenter also noted that HUD should press PHAs for well-rounded management efforts and not simply for one isolated, albeit important, housing initiative. This rule, it is true, does not provide additional funding for initiatives undertaken by PHAs to reduce vacancies. Establishing a new funding mechanism would be a fundamental change which the Department is committed not to make without seeking authorizing legislation. Furthermore, the Department already provides funding through the Comprehensive Improvement Assistance Program (CIAP) which may be used by PHAs under a comprehensive modernization program to address vacancy problems. CIAP also provides management improvement funds which may be used by PHAs to improve their management.

Comments Addressed to Specific Sections

Section 990.102 Definitions.

Among other changes, the interim rule revised the definition of "Unit Months Available" in § 990.102(q) to provide that, for PHA Requested Budget Years starting on or after July 1, 1991, a unit in a vacant building that is in a project determined by HUD to be nonviable is not considered available for occupancy and is not counted as a unit eligible for subsidy. One commenter objected to including a July 1, 1991, cutoff of subsidy for these units on the grounds that the problem of public housing developments being considered nonviable will not be resolved by eliminating funding for units in these developments. The Department believes that this objection is based on a misunderstanding of the purpose of the cutoff and its relationship to the Department's efforts to modernize units. CIAP funding of projects with serious physical, locational, or other problems is provided when HUD determines that the proposed modernization program will eliminate or effectively mitigate the problems, at a reasonable cost. If the proposed modernization seems unlikely to eliminate or sufficiently mitigate the underlying problems, or if it is not cost reasonable, the project is considered nonviable. Nonviability is a determination that applies to a project in light of a specific modernization application. It is possible that a different modernization program could be

submitted that would determined likely to make the project viable.

Under CIAP, all large and medium sized PHAs are to have submitted a comprehensive plan assessing the modernization needs for each project by early 1987. Before July 1, 1991, HUD will have had an opportunity to review these plans and to identify projects that are not likely to be viable under the treatment proposed in the plans and PHAs will have had time to revise their modernization plans, for these projects or to determine to dispose of the projects. With respect to small PHAs, the Department will make viability determinations for individual projects when application is made for modernization funds.

The Department has adopted the July 1, 1991, cutoff of operating subsidy for units in vacant buildings in projects determined to be nonviable because the Department believes that it should not continue to provide operating subsidy for units that clearly are not providing adequate housing to anyone and for which there are no reasonable plans to create decent living conditions.

The same commenter requester that the regulation specifically state that vacant units in vacant viable buildings will continue to receive subsidy after 1991. The rule defines "unit months available" and creates an exception for one category of vacant units, namely, those that are located in vacant buildings in nonviable projects after July 1, 1991. It would unnecessarily complicate the rule to restate that other vacant units are considered available for occupancy.

Another commenter objected to the cutoff of funds bacause PHAs are not given a voice in the viability decision or in establishing procedures for determining when projects are considered nonviable. This commenter argued that any decision to find a project nonviable should include a review of whether HUD has fulfilled its responsibilities in providing modernization and other funding, of the need for public housing in the community, and of the feasibility of providing replacement housing for lower income families in any other way.

Decisions on whether a project should be funded for modernization are made by HUD under 24 CFR Part 968, which was promulgated through rulemaking (see 47 FR 22315, May 21, 1982). PHAs are involved in the determination of viability in that they design the treatment plans for modernization. Nevertheless, the final viability determinations must be made by HUD, since HUD is responsible for the administration of CIAP. These determinations assess the likely viability of a project if funds were available; lack of HUD rehabilitation funding is not a basis for finding a project nonviable. HUD does an assessment of the feasibility of relocation as a standard part of its viability determination and will provide modernization funds for a nonviable project if relocation of tenants is not feasible.

The Department has not adopted the commenter's suggestion that a determination of nonviability take into consideration an assessment of the need for public housing in the community in deciding whether a project is viable. Such an assessment is not relevant to the issue of viability, since vacant, nonviable projects are not currently contributing to meeting this need nor can they be rehabilitated to provide adequate housing.

Several commenters argued that units that have been approved for nondwelling use should be considered in determining the PHA's Allowable Expense Level (AEL). They argued that such units enhance the quality of life for existing residents and surrounding neighborhoods but usually generate only nominal rents while still generating costs for the PHA. Units approved by HUD for nondwelling use are not considered available for occupancy within the definition of "unit months available" in § 990.102 and, therefore, are not included in the determination of the PHA's Allowable Expense Level. This exclusion of units approved for nondwelling use has been in the PFS definition of "unit months available" since the Performance Funding System regulations were first promulgated on April 16, 1975, at 40 FR 17008. While the interim rule revised the definition, it did not propose to change this exclusion. The Department recognizes that there is a benefit to project residents for units that are used for nondwelling purposes and permits such use, conditioned upon HUD approval. However, this benefit must be measured against the fact that units approved for nondwelling use are no longer available to house families. After considering the public comment, the Department has not adopted the suggestion because it believes that the current rule strikes the appropriate balance by permitting units to be used for nondwelling purposes but not providing operating subsidies for these units.

Several commenters also urged that PHAs be permitted to use their original housing unit configuration for the purpose of calculating their AEL even though the unit configuration has been altered subsequently and reduced by combining smaller bedroom-sized units to create larger bedroom-sized units. This recommendation is outside the scope of the changes made in the interim rule. It involves a basis change in the computation of the Allowable Expense Level which the Department does not consider an appropriate subject matter for this final rule.

The Department has made "Vacant On-Schedule Modernization Units" a defined term to make the regulation text easier to read.

Section 990.109 Projected Operating Income Level.

Section 990.109(b)(3)(i) authorizes a PHA with an Actual Occupancy Percentage equal to or greater than 97% to use 97% as its Projected Occupancy Percentage. One commenter recommended that a PHA in this category be allowed to use a 97% Projected Occupancy Percentage immediately. It was the Department's intent when it published the interim rule to have the revisions apply uniformly to a PHA's first Requested Budget Year beginning on or after July 1, 1986. The Department published a correction document on October 2, 1985, at 50 FR 40196 to add a new § 990.119 to make it clear that the revisions made by the interim rule would not apply to Requested Budget Years beginning October 1, 1985, and January 1, and April 1, 1986. The Department does not believe there is any compelling reason to accelerate implementation of the provisions which would benefit only high occupancy PHAs.

The comments urging the Department to use an Actual Occupancy Percentage of less than 95% (rather than less than 97%) as the threshold for determining when a PHA must do a Comprehensive Occupancy Plan also apply under this section to how a PHA determines its Projected Occupancy Percentage. For the reasons stated in the discussion of § 990.118 below, the Department has retained the 97% criterion.

Section 990.109(b)(3)(iv) has been revised to make it clear that there are three types of PHAs that fall within the category of low occupancy PHAs without an approved Comprehensive Occupancy Plan. The first type is a PHA that has completed the term of a Comprehensive Occupancy Plan but has not, either under the Plan or afterwards, achieved an Actual Occupancy Percentage of 97% or had five or fewer vacant units other than vacant, on-schedule modernization units. The second is a low occupancy PHA that could submit a Comprehensive Occupancy Plan but elects not to submit

one. The third is a PHA that submits a Plan that is disapproved by HUD. The reason for these changes are set out in the discussion of related changes to § 990.118(a) below.

Section 990.109(b)(3)(iv) permits the first type of low occupancy PHA described above, in determining its Projected Occupancy Percentage, to discount vacant units that are vacant for reasons beyond the PHA's control, as described in § 990.118(i). This type of PHA, however, is not authorized to do another Comprehensive Occupancy Plan unless it first achieves a 97% Actual Occupancy Rate and subsequently falls below that level. The other two types of low occupancy PHAs can only discount these units if they develop approved Comprehensive Occupancy Plans.

Section 990.117 Determining Actual Occupancy Percentage.

Under the interim rule, PHAs for their first Requested Budget Year on or after July 1, 1986, would determine whether they are required to submit a Comprehensive Occupancy Plan based on their Actual Occupancy Percentage as of September 30, 1984. For subsequent Requested Budget Years, the PHAs would make this determination based on their Actual Occupancy Percentage as of the first day of the month that is six months before the respective Requested Budget Year.

Several commenters questioned the use of the September 30, 1984, date for determining a PHA's Actual Occupancy Percentage for its first Requested Budget Year on or after July 1, 1986, because the data would be stale. They recommended using the same criterion that is used for subsequent Requested Budget Years. The commenters also recommended that HUD either provide exceptions to the so-called "snapshot" approach to determining Actual Occupancy Percentages to account for aberrations in the vacancy rate, or permit the use of an average over time. The Department agrees with these recommendations and has revised § 990.117 to (1) eliminate September 30, 1984, as a date for determining Actual Occupancy Percentage, except as discussed below, and (2) permit a PHA to determine its Actual Occupancy Percentage, at its option, either as of the last day of the month ending six months before the Requested Budget Year or as an average for the month ending six months before the Requested Budget Year. For example, a PHA with a Requested Budget Year beginning October 1, 1986, could determine its Actual Occupancy Percentage either *as of* March 31, 1986, or based on its average occupancy *during* March of 1986. (If a PHA elects to use the average approach, it must maintain records to document its computation of its Actual Occupancy Percentage.)

The Department has recently started the process to change the Report Date for Form HUD–51234, Report on Occupancy for Public and Indian Housing, to coincide with the last day of the month ending six months before the start of the PHA's fiscal year. Currently, the Report Date for this Form, for all PHAs, is September 30th. Since this change is not expected to become effective until after a PHA with a fiscal year beginning July 1, 1986, could submit a Comprehensive Occupancy Plan, the Department has determined that good cause exists and, under § 999.101, waives the requirements of § 990.117 to permit a PHA that has a fiscal year beginning July 1, 1986, and chooses to use the "snapshot" method to determine its Actual Occupancy Percentage, to use any of the following dates: September 30, 1984, as provided in the interim rule; September 30, 1985, the Report Date for Form HUD–51234 as of January 1, 1986; or December 31, 1985, the date provided in this final rule. If a PHA with a fiscal year beginning July 1, 1986 chooses to use a monthly average to determine its Actual Occupancy Percentage, it must determine the average for December 1985.

Section 990.118 Comprehensive Occupancy Plan Requirements.

In the interim rule, paragraph (a) of this section provides that a PHA with an Actual Occupancy Percentage of less than 97% shall prepare and submit a Comprehensive Occupancy Plan to HUD. One commenter recommended revising the paragraph to permit a PHA to elect to use 97% rather than do a Plan. The interim rule already permits a PHA to take this course of action, since a PHA that failed to submit a Comprehensive Occupancy Plan and had an Actual Occupancy Percentage less than 97% would be a "low occupancy PHA without an approved Comprehensive Occupancy Plan" under § 990.109(b)(3)(iv) and would be required to use 97% as its Projected Occupancy Percentage. The Department recognizes, however, that the regulation could be clearer on this point and has made the following revisions: First, § 990.118(a) has been revised to make the preparation of a Comprehensive Occupancy Plan permissive. Second, as discussed above, § 990.109(b)(3)(iv) has been revised to make it explicitly applicable to a PHA that is authorized to submit a Comprehensive Occupancy Plan but elects not to submit one—thereby making it clearer that such a PHA must use 97% as its Projected Occupancy Percentage.

Several commenters argued that the cutoff point for requiring a Comprehensive Occupancy Plan should be an Actual Occupancy Percentage of less than 95%, rather than less than 97%. This issue was also raised by public comments on the proposed rule, and was addressed by HUD in the preamble to the proposed rule at 50 FR 25955. The Department continues to believe that the 97% standard is preferable. It is important that Federal funds provided to house lower income families be used efficiently. The rule is intended to encourage maximum utilization of available units. That purpose is better achieved by having a PHA focus on vacancy problems when there is a vacancy rate in excess of 3%.

One commenter suggested that units that are held vacant as a result of federally required desegregation efforts not be considered vacant units for purposes of determining whether a Comprehensive Occupancy Plan must be prepared, or for determining a PHA's operating subsidy. It was the Department's intent, in creating the interim rule's "litigation category" of units vacant for reasons beyond a PHA's control, to cover only units that are vacant as a result of court-ordered constraints based on a cause of action arising under Title VI of the Civil Rights Act of 1964, or as a result of HUD-approved constraints related to such litigation or potential litigation. The Department has revised § 990.118(i)(3) accordingly. The Department, however, has not adopted the suggestion that these units be disregarded in determining whether a Comprehensive Occupancy Plan must be prepared, since the Comprehensive Occupancy Plan is a logical place for a PHA to address the actions it needs to take to return these units to occupancy.

There were many comments on the approval process for the Comprehensive Occupancy Plan. These comments included requests for criteria governing HUD's approval of the plan and for a procedures manual (including a commenter's request for an opportunity to participate in the development of the manual); and questions concerning how many times HUD would permit a revision of the Comprehensive Operating Plans; under what criteria HUD would approve and extension of a Plan; and who would make final decisions on competing ways to meet goals. More specifically, a commenter inquired whether HUD would force PHAs to repair efficiency and one bedroom units (which would have a

greater effect on vacancy rate) rather than repair 4, 5, and 6 bedroom units (which could house more persons). It was also suggested that the Comprehensive Occupancy Plan be automatically approved if HUD does not respond to it within 60 days of receipt.

With respect to this last issue, the Department intends to review Comprehensive Occupancy Plans promptly. Nonetheless, it does not believe that automatic approval of an entire Comprehensive Occupancy Plan based solely on HUD's failure to meet a review deadline is a sound administrative practice. Balancing the need for review of the Plan against a PHA's need to know what its operating subsidy for the next year will be, the Department has added a new paragraph (f) under which a PHA's PHA-wide yearly occupancy goal for the first year of its Plan will be considered approved for the purpose of calculating its operating subsidy, if HUD fails to approve, disapprove or otherwise substantively comment on the Comprehensive Occupancy Plan within 45 days of receipt of the Plan.

With respect to the questions raised concerning the approval process, the Department, in developing the interim rule, considered and rejected an approach under which it would adjust operating subsidy based upon a PHA's measured progress in completing specific actions, detailed in plan, within an agreed upon time frame. Such a plan would require that HUD and the PHA negotiate the details of the action a PHA must take and provide for yearly revision of the milestones to reflect changing circumstances. Many of the comments received suggest that the commenters perceive the Comprehensive Occupancy Plan to function in this manner.

The Comprehensive Occupancy Plan, however, is not designed to function this way. The primary purpose of the Comprehensive Occupancy Plan is to arrive at a set of yearly occupancy goals which lead to a 97% Actual Occupancy Percentage by the end of the period provided in the Plan. The purpose of the general and specific strategies that are a part of the Comprehensive Occupancy Plan is to enable HUD to assess in its review the reasonableness of the goals, not to dictate to PHA what actions it must take at any given point. Under this approach, it is not necessary for the Comprehensive Occupancy Plan to provide (and the regulation does not require that it provide) for revision of the general or specific strategies. A PHA, at its discretion, may alter its strategies as it believes necessary to meet its goals. In addition, the rule does not provide for revision of the yearly goals. Both the interim rule and the final rule provide for an adjustment to the PHA-wide occupancy goal to discount units vacant for reasons beyond a PHA's control when that goal is used to compute the PHA's projected operating income level (final rule § 990.118(h), interim rule § 990.118(b).

Contrary to the implication of some of the comments, the interim rule does not provide for extending the term of a Comprehensive Occupancy Plan after the Plan has been approved. Rather, § 990.118(c)(3) authorizes a term for a Comprehensive Occupancy Plan that exceeds the normal five- or two-year maximum only on the written approval of the Assistant Secretary for Public and Indian Housing. The decision to allow a period in excess of the normal maximum period is made at the time of approval of the Comprehensive Occupancy Plan.

The Department does not believe that it is either necessary or desirable to set out criteria for the approval of a Comprehensive Occupancy or for when the Plan may exceed the normal maximum term. The determination of whether a particular PHA's Comprehensive Occupancy Plan provides attainable occupancy goals does not lend itself to *a priori* standards. Rather, it must be determined case-by-case based on the particular circumstances of the PHA.

One commenter believed that the rule should be clearer regarding HUD's treatment of a PHA that meets the 97% rate by the end of a five-year Comprehensive Occupancy Plan, but subsequently falls below 97%. The commenter asked whether the PHA would use its Actual Occupancy Percentage, continue to use 97%, or submit a Comprehensive Occupancy Plan with a two-year term. The answer under the interim rule depends upon what the PHA's Actual Occupancy Percentage is for the respective Requested Budget Year. If the PHA would qualify as a high occupancy PHA *but for* on-schedule modernization, it may use its Actual Occupancy Percentage (see interim rule § 990.118(b)(3)(ii)). If it is a low occupancy PHA, it would be required to prepare a Comprehensive Occupancy Plan (interim rule § 990.118(a)), and if the Plan were approved by HUD, it would use the greater of its Actual Occupancy Percentage or its yearly PHA-wide occupancy goal (interim rule § 990.109(b)(3)(iii)). Such a Plan normally would not exceed a period of two years (interim rule § 990.118(c)(2)). If it was a low occupancy PHA without an approved Comprehensive Occupancy Plan, it would be required to use 97% as its Projected Occupancy Percentage (interim rule § 990.109(b)(3)(iv)).

The commenter's question focused attention on another situation, namely, a PHA which, at the expiration of the period covered by the Comprehensive Occupancy Plan, has not achieved an Actual Occupancy Percentage equal to or greater than 97%. Under the interim rule, a PHA in this situation would determine its Projected Occupancy Percentage in the same manner as described above for a PHA that achieves a 97% Actual Occupancy Percentage. Under the interim rule a PHA which, at the completion of a five-year Comprehensive Occupancy Plan, had an Actual Occupancy Rate less than 97% could immediately be eligible for a two-year Comprehensive Occupancy Plan, followed by additional two-year Plans if it still failed to reach 97% Actual Occupancy Percentage. The Department never intended the two-year Comprehensive Occupancy Plan to be used in this manner. Rather, it was intended to be available to a PHA that has had a 97% Actual Occupancy Percentage but later drops below this percentage. The two-year maximum period was established because such a PHA's vacancy problems should normally be less severe than those of a PHA with vacancy problems that would be covered by five-year Comprehensive Occupancy Plans.

The final rule has been revised so that a PHA that has a five-year (or longer) Comprehensive Occupancy Plan and fails to achieve a 97% Actual Occupancy Percentage by the end of the Plan period must use 97% as its Projected Occupancy Percentage, adjusted to discount units that are vacant for reasons beyond its control. Such a PHA may prepare another Comprehensive Occupancy Plan only if it falls below a 97% Actual Occupancy Percentage *after having achieved* a 97% Actual Occupancy Percentage for at least one fiscal year.

On the basis of the above discussion, the Department has revised § 990.118 as follows:

Paragraph (a) is now permissive rather than mandatory, to conform with § 990.109(b)(3)(iv), which, as discussed above, now explicitly provides that a low-occupancy PHA that elects not to submit a Comprehensive Occupancy Plan must use 97% as its Projected Occupancy Percentage. Paragraph (a)(1) in the final rule applies to a PHA's first Requested Budget Year beginning on or after July 1, 1986, and contains the same condition for submitting a

Comprehensive Occupancy Plan as in § 990.118(a) of the interim rule, namely, the PHA must have an Actual Occupancy Percentage less than 97% and have more than five vacant units, not solely because of vacant, on-schedule modernization units. For subsequent Requested Budget Years, paragraphs (a)(2) (ii) and (iii) make it clear that, in addition to projecting itself to be a low-occupancy PHA for the Requested Budget Year, a PHA must meet the following conditions: (1) It must have had a 97% Actual Occupancy Percentage (or five or fewer vacant units other than vacant, on-schedule modernization units) in the current year; and (2) it is not currently under a Comprehensive Occupancy Plan.

Paragraph (c) in the interim rule has been restructured as paragraphs (c) and (d) in the final rule. New paragraph (c) now provides that Comprehensive Occupancy Plans are to be submitted with a PHA's budget. New paragraph (d)(1)(i) provides the maximum term for a Comprehensive Occupancy Plan submitted for a PHA's first Requested Budget Year beginning on or after July 1, 1986, and paragraph (d)(1)(ii) provides the maximum term for a Comprehensive Occupancy Plan submitted in a subsequent Requested Budget Year beginning on or after July 1, 1987. Paragraph (d)(2) of the final rule (which is substantially the same as § 990.118(c)(3) of the interim rule) provides that a Comprehensive Occupancy Plan may be approved for a term that exceeds the normal maximum but only with the prior written authorization of the Assistant Secretary for Public and Indian Housing.

Under § 990.118(h) of the final rule (interim rule § 990.118(f)), a PHA under an approved Comprehensive Occupancy Plan uses as its Projected Occupancy Percentage the greater of (1) its Actual Occupancy Percentage or (2) its approved, yearly PHA-wide occupancy goal. Two commenters recommended that a PHA that exceeds its goals should still be allowed to use its goal in determining its Projected Occupancy Percentage. The commenters believed such a change would give PHAs incentive not just to meet their goals but to exceed them. The Department considered this approach in developing the interim rule but decided against it because it creates a strong incentive for establishing very low goals in the early years of a Comprehensive Occupancy Plan.

Section 990.118(i) of the final rule (interim rule § 990.118(g)) identifies three categories of vacant units that are considered vacant for reasons beyond a PHA's control and which may be discounted in determining a PHA's Projected Occupancy Percentage under § 990.118(h) of the final rule. The litigation category in the interim rule has been made more specific in § 990.118(i)(3), as described above. One commenter suggested that HUD should consider the following factors: (1) Location in terms of any conditions in the surrounding neighborhoods that adversely affect the health, life and safety of project residents; (2) social conditions that have seriously affected the marketability of the project; and (3) physical conditions that have continuously hampered the marketability of the project. Another commenter claimed this paragraph did not list other causes of vacancies that may be beyond a PHA's control, e.g., overbuilding of section 8 new construction and section 202 projects; limited money for modernization; need for extraordinary maintenance, betterments and additions; increasing rent to income ratios and elimination of ceiling rents which result in the moveout of higher income families.

The factors enumerated by the commenters are very relevant to a PHA's consideration of what to do to eliminate vacancies. They represent the type of issues a PHA must deal with in a Comprehensive Occupancy Plan to eliminate vacancy problems. The Department does not believe that these market-related considerations, however, are appropriate for adjusting a PHA's Projected Occupancy Percentage, since such adjustments would reduce the incentive to face these issues.

Findings

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR Part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection and copying during regular business hours in the Office of the Rules Docket Clerk, Room 10276, 451 Seventh Street, SW., Washington, DC 20410–0500.

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

In accordance with the provisions of 5 U.S.C. 605(b) (the Regulatory Flexibility Act), the Undersigned hereby certifies that this rule would not have a significant economic impact on a substantial number of small entities, because a significant number of very small PHAs that have high vacancies are currently using a 97% Projected Occupancy Percentage to compute their Operating Expense Level. Accordingly, the funds available to these PHAs should not be significantly affected.

This rule was listed as Sequence Number 956 in the Department's Semiannual Agenda of Regulations published on April 21, 1986 (51 FR 14036 at page 14077), under Executive Order 12291 and the Regulatory Flexibility Act.

The information collection requirements contained in § 990.118 of this rule have been approved by the Office of Management and Budget under the provisions of the Paperwork Reduction Act of 1980 (44 U.S.C. 3501–3520) and assigned OMB control number 2577–0066.

The Catalog of Federal Domestic Assistance program numbers are 14.146 and 14.156.

List of Subjects in 24 CFR Part 990

Housing and community development, Lower-income housing, Public housing.

PART 990—[AMENDED]

Accordingly, the Department amends 24 CFR Part 990 as follows:

1. The authority citation for Part 990 continues to read as follows:

Authority: Sec. 9, United States Housing Act of 1937, 42 U.S.C. 1437g; sec. 7(d), Department of HUD Act, 42 U.S.C. 3535(d).

2. The amendments published on June 24, 1985 (50 FR 25951), and October 2, 1985 (50 FR 40196) are adopted as final, with the following changes.

3. In § 990.102, the definition of "Unit Approved for Deprogramming" is revised and a new defined term "Vacant, On-Schedule Modernization Units" is added in alphabetical order, to read as follows:

§ 990.102 Definitions.

* * * * *

Unit Approved for Deprogramming. (a) A dwelling unit for which HUD has approved the PHA's formal request to remove the dwelling unit from the PHA's

inventory and the Annual Contributions Contract but for which removal, *i.e.*, deprogramming, has not yet been completed, or (b) a nondwelling structure or a dwelling unit used for nondwelling purposes which the PHA has determined will no longer be used for PHA purposes and which HUD has approved for removal from the PHA's inventory and Annual Contributions Contract.

* * * * *

Vacant, On-Schedule Modernization Units. Vacant, On-Schedule Modernization Units are vacant units in an otherwise occupiable project that has received funding for modernization through the Comprehensive Improvement Assistance Program (24 CFR Part 968) or other sources; and for which

(a) It is expected that the vacant units will be occupied on completion of modernization work;

(b) The PHA has a schedule for carrying out the modernization which is acceptable to HUD; and

(c) The modernization work is on schedule.

4. In § 990.109, paragraph (b)(3) is revised to read as follows:

§ 990.109 Projected Operating Income Level.

* * * * *

(b) * * *

(3) *Projected Occupancy Percentage.* The PHA shall determine its projected percentage of occupancy for all Project Units (Projected Occupancy Percentage), as follows:

(i) *High occupancy PHAs.* If the PHA's Actual Occupancy Percentage (see § 990.117) is equal to or greater than 97%, the PHA's Projected Occupancy Percentage is 97%.

(ii) *High occupancy PHAs but for on-schedule modernization.* If the PHA's Actual Occupancy Percentage (see § 990.117), is less than 97% solely because of Vacant, On-Schedule Modernization Units, the PHA's Projected Occupancy Percentage is its Actual Occupancy Percentage. A PHA may also use its Actual Occupancy Percentage as its Projected Occupancy Percentage if the PHA has five or fewer vacant units other than Vacant, On-Schedule Modernization Units.

(iii) *Low occupancy PHAs with an approved Comprehensive Occupancy Plan.* If the PHA has an Actual Occupancy Percentage (see § 990.117) less than 97% and more than five vacant units, not solely because of Vacant, On-Schedule Modernization Units; and if the PHA has a HUD-approved Comprehensive Occupancy Plan, the PHA's Projected Occupancy Percentage is determined under § 990.118(h).

(iv) *Low occupancy PHAs without an approved Comprehensive Occupancy Plan.* Except as provided in the next sentence, the PHA shall use 97% as its Projected Occupancy Percentage, if the PHA: (A) has an Actual Occupancy Percentage (see § 990. 117) less than 97% and has more than five vacant units, not solely because of Vacant, On-Schedule Modernization Units; and the PHA: (B) (*1*) Has completed the term of its approved Comprehensive Occupancy Plan but has not achieved a 97% Actual Occupancy Percentage or has not had five or fewer vacant units other than Vacant On-Schedule Modernization Units; or (*2*) is authorized to submit a Comprehensive Occupancy Plan but elects not to submit one, or (*3*) submits a Comprehensive Occupancy Plan that is disapproved by HUD. A low occupancy PHA without an approved Comprehensive Occupancy Plan that meets the conditions described in paragraph (B)(*1*) of this paragraph (iv) may adjust the 97% Projected Occupancy Percentage to discount units that are vacant for reasons beyond its control, as provided in § 990.118(i).

* * * * *

5. Section 990.117 is revised to read as follows:

§ 990.117 Determining Actual Occupancy Percentage.

For each Requested Budget Year beginning on or after July 1, 1986, the PHA shall determine the percentage of occupancy for all Project Units included in the Unit Months Available (Actual Occupancy Percentage), at its option, either for the last day of the month that ends six months before the beginning of the Requested Budget Year, or based on the average occupancy during the month ending six months before the beginning of the Requested Budget Year. If the PHA elects to use an average, it shall maintain a record of its computation of its Actual Occupancy Percentage. The Actual Occupancy Percentage shall be adjusted to reflect expected changes in occupancy because of modernization, new development, demolition, or disposition in order to reflect the expected average occupancy rate throughout the year. If, after that date, there are changes, up or down, in occupancy because of modernization, new development, demolition or disposition not reflected in the adjustment, the PHA shall submit a budget revision to reflect the actual change in occupancy due to these actions.

6. Section 990.118 is revised to read as follows:

§ 990.118 Comprehensive Occupancy Plan requirements.

(a) *PHAs that may submit a Comprehensive Occupancy Plan.* A PHA may prepare and submit a Comprehensive Occupancy Plan to HUD in accordance with the provisions of this section:

(1) For its first Requested Budget Year beginning on or after July 1, 1986, if the PHA has an Actual Occupancy Percentage (§ 990.117) less than 97%, and has more than five vacant units, not solely because of Vacant, On-Schedule Modernization Units; or

(2) For a Requested Budget Year beginning on or after July 1, 1987, if:

(i) The PHA projects an Actual Occupancy Percentage (§ 990.117) for the Requested Budget Year of less than 97% and has more than five vacant units, other than Vacant, On-Schedule Modernization Units;

(ii) The PHA is not currently a low occupancy PHA, that is, the PHA had an Actual Occupancy Percentage determined under § 990.117 for the current Requested Budget Year that equalled or exceeded 97% or had five or fewer vacant units other than Vacant, On-Schedule Modernization Units; and

(iii) The PHA is not currently under a Comprehensive Occupancy Plan.

(b) *Comprehensive Occupancy Plan content.* A Comprehensive Occupancy Plan shall provide a general PHA-wide strategy for returning to occupancy or deprogramming all vacant units and a specific strategy for returning to occupancy or deprogramming vacant units for each project that thas an occupancy percentage of less than 97%.

(1) The general PHA-wide strategy for returning to occupancy or deprogramming all vacant units shall specify management actions the PHA is taking or intends to take to eliminate vacancies, such as revised occupancy policies, actions to reduce time to return vacated units to occupancy, and identification of the need to use the exception for nonelderly tenants in elderly projects, and shall include a schedule for completing these actions.

(2) The project-specific strategy shall:

(i) Identify each project that has a percentage of occupancy less than 97%;

(ii) State the project-specific actions the PHA is taking or intends to take to eliminate vacancies, such as (A) modernization, (B) demolition, (C) disposition, (D) change in occupancy policy, or (E) physical or management improvements; and

(iii) For each project identified, include a schedule for completing these actions and returning the units to occupancy.

(3) The Comprehensive Occupancy Plan shall also include yearly PHA-wide occupancy goals and yearly occupancy goals for each project with an occupancy rate below 97% stated for each year until there is a projected PHA-wide occupancy rate of at least 97% or an estimate that the PHA will have five or fewer vacant units, excluding units that are Vacant, On-Schedule Modernization Units. These goals should reflect the average occupancy percentage for each year. The yearly occupancy goals (both PHA-wide and project specific) for the first year of a Comprehensive Occupancy Plan that is submitted with a PHA's budget for its first Requested Budget Year beginning on or after July 1, 1986, shall take into account actions taken by the PHA from August 2, 1985, to reduce vacancies.

(c) *Time for submitting a Comprehensive Occupancy Plan.* A PHA that submits a Comprehensive Occupancy Plan to HUD for approval in accordance with paragraph (a) of this section shall submit the Comprehensive Occupancy Plan with its budget.

(d) *Maximum term of a Comprehensive Occupancy Plan.* (1) Except as provided in paragraph (d)(2) of this section, a Comprehensive Occupancy Plan:

(i) For a Comprehensive Occupancy Plan submitted for a PHA's first Requested Budget Year beginning on or after July 1, 1986, shall be for a period approved by HUD as reasonable which, shall not exceed five years; or

(ii) For a Comprehensive Occupancy Plan submitted for a Requested Budget Year beginning on or after July 1, 1987, shall be for a period of one or two years, as approved by HUD.

(2) A Comprehensive Occupancy Plan that exceeds the maximum period provided in paragraphs (d)(1) (i) or (ii) of this section may be approved only if the Assistant Secretary for Public and Indian Housing has given written authorization for such longer period before the approval of the Plan.

(e) *Local governing body review.* The PHA shall have the Comprehensive Occupancy Plan reviewed by the local governing body for comment and shall submit any comments from the local governing body to HUD with the Comprehensive Occupancy Plan.

(f) *HUD review of Comprehensive Occupancy Plan.* If HUD fails to approve, disapprove or otherwise substantively comment on a Comprehensive Occupancy Plan within 45 days of receipt of the Plan, the PHA-wide yearly occupancy goal for the first year of the Comprehensive Occupancy Plan shall be considered approved for the purpose of determining the PHA's Projected Occupancy Percentage under paragraph (h) of this section.

(g) *Financially or Operationally Troubled PHA.* If a PHA is a Financially or an Operationally Troubled PHA (see HUD Handbook 7475.14 (April 1984), Chapter 3) and has an approved Workout Plan, the Comprehensive Occupancy Plan shall be made an addendum to the Workout Plan.

(h) *Projected Occupancy Percentage (Comprehensive Occupancy Plan PHA).* A PHA that has a HUD-approved Comprehensive Occupancy Plan shall use as its Projected Occupancy Percentage for computing its projected operating income level under § 990.109 the greater of (1) its Actual Occupancy Percentage, as determined under § 990.117 or (2) its approved, yearly PHA-wide occupancy goal, adjusted, as necessary, to discount units that are vacant for reasons beyond the PHA's control, as provided in paragraph (i) of this section.

(i) *Units vacant for reasons beyond a PHAs control.* A vacant unit is considered vacant for reasons beyond a PHA's control only if the unit is located in a project that meets one of the following conditions:

(1) The PHA has applied for modernization, HUD cannot fund the project because of lack of sufficient funding, and it is expected that the units will be occupied when the units are modernized.

(2) The vacant units are Vacant, On-Schedule Modernization Units.

(3) The units are vacant because of natural disasters or as a result of a court-ordered, or HUD-approved, constraints relating to Title VI of the Civil Rights Act of 1964.

(Information collection requirements contained in this section have been approved by the Office of Management and Budget under control number 2577–0066.)

10. Section 990.119 is revised to read as follows:

§ 990.119 Transition provision.

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

Dated: April 21, 1986.

James E. Baugh,

General Deputy Assistant, Secretary for Public and Indian Housing.

[FR Doc. 86–10197 Filed 5–6–86; 8:45 am]

BILLING CODE 4210-27-M

DEPARTMENT OF JUSTICE

28 CFR Part 0

[Tax Division Directive No. 55]

Redelegation of Authority to Release Rights of Redemption in Certain Cases

AGENCY: Justice.

ACTION: Final rule.

SUMMARY: This directive increases the United States Attorneys' authority to release rights of redemption in certain cases to $200,000. This directive supersedes Tax Division Directive No. 30.

EFFECTIVE DATE: This directive shall become effective on May 7, 1986.

FOR FURTHER INFORMATION CONTACT: Milan Karlan, Tax Division, Department of Justice, Washington, DC 20530 (202) 724–6567.

SUPPLEMENTARY INFORMATION: The Acting Assistant Attorney General for the Tax Division has determined that this directive is not a rule within the meaning of Executive Order 12291 or the Regulatory Flexibility Act.

List of Subjects in 28 CFR Part 0

Authority delegations (Government Agencies), Government employees, Organization and functions (Government Agencies).

PART 0—[AMENDED]

1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, unless otherwise noted.

2. In the appendix to Part 0, Subpart Y, under Tax Division, remove Directive No. 30 and add Directive No. 55 to read as follows:

[Directive No. 55]

By virtue of the authority vested in me by Part 0 of Title 28 of the Code of Federal Regulations, particularly §§ 0.70, 0.160, 0.162, 0.164, 0.166, and 0.168, it is hereby ordered as follows:

Section 1. The U.S. Attorney for each district in which is located real property, which is subject to a right of redemption of the United States in respect of Federal tax liens, arising under section 2410(c) of Title 28 of the United States Code, or under State law when the United States has been joined as a party to a suit, is authorized to release the

right of redemption, subject to the following limitations and conditions—

(1) This redelegation of authority relates only to real property on which is located only one single-family residence, and to all other real property having a fair market value not exceeding $200,000. That limitation as to value or use shall not apply in those cases in which the release is requested by the Veterans Administration or any other Federal agency.

(2) The consideration paid for the release must be equal to the value of the right of redemption, or fifty dollars ($50), whichever is greater. However, no consideration shall be required for releases issued to the Veterans Administration or any other Federal agency.

(3) The following described documents must be placed in the U.S. Attorney's file in each case in which a release is issued—

(A) The favorable recommendation of the appropriate Regional Counsel of the Internal Revenue Service.

(B) Appraisals by two disinterested and well-qualified persons. In those cases in which the applicant is a Federal agency, the appraisal of that agency may be substituted for the two appraisals generally required.

(C) Such other information and documents as the Tax Division may prescribe.

Section 2. This directive supersedes Tax Division Directive No. 30, effective August 1, 1978.

Section 3. This directive shall become effective on the date of its publication in the **Federal Register.**

Roger M. Olsen,

Acting Assistant Attorney General, Tax Division.

Approved: April 2, 1986.

D. Lowell Jensen,

Deputy Attorney General.

[FR Doc. 86-8405 Filed 5-6-86; 8:45 am]

BILLING CODE 4410-18-M

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28 CFR Part 0

[Tax Division Directive No. 54]

Redelegation of Authority to Compromise and Close Civil Claims

AGENCY: Justice.

ACTION: Final rule.

SUMMARY: This directive gives the Chief of the Office of Special Litigation authority to accept and reject offers in compromise and approve administrative settlements and concessions in the same manner, and subject to the same limitations, as the Chiefs of the Civil Trial Sections and the Claims Court Section, and increases the United States Attorneys' authority to compromise and close judgments referred to them to judgments which do not exceed $200,000. This directive supersedes Tax Division Directive No. 47.

EFFECTIVE DATE: This directive shall become effective on May 7, 1986.

FOR FURTHER INFORMATION CONTACT: Milan Karlan, Tax Division, Department of Justice, Washington, DC 20530 (202) 724-6567.

SUPPLEMENTARY INFORMATION: The Acting Assistant Attorney General for the Tax Division has determined that this directive is not a rule within the meaning of Executive Order 12291 or the Regulatory Flexibility Act.

List of Subjects in 28 CFR Part 0

Authority delegations (Government Agencies), Government employees, Organization and functions (Government Agencies).

PART 0—[AMENDED]

1. The authority citation for Part 0 continues to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, unless otherwise noted.

2. In the appendix to Part 0, Subpart Y, under Tax Division, remove Directive No. 47 and add Directive No. 54 to read as follows:

[Directive No. 54]

By virtue of the authority vested in me by Part 0 of Title 28 of the Code of Federal Regulations, particularly §§ 0.70, 0.160, 0.162, 0.164, 0.166, and 0.168, it is ordered as follows:

Section 1. The Chiefs of the Civil Trial Sections, the Claims Court Section, the Appellate Section, the Office of Special Litigation, and the Attorney-in-Charge of the Dallas Field Office are authorized to reject offers in compromise, regardless of amount, provided that such action is not opposed by the agency or agencies involved.

Section 2. Subject to the conditions and limitations set forth in Section 8 hereof, the Chiefs of the Civil Trial Sections, the Claims Court Section and the Office of Special Litigation are authorized to:

(A) Accept offers in compromise in all civil cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $200,000,

(B) Approve administrative settlements not exceeding $100,000,

(C) Approve concessions (other than by compromise) of civil claims asserted by the Government in all cases in which the gross amount of the original claim does not exceed $100,000,

(D) Accept offers in compromise in injunction or declaratory judgment suits against the United States in which the amount of the related liability, if any, does not exceed $200,000, and

(E) Accept offers in compromise in all other non-monetary cases,

provided that such action is not opposed by the agency or agencies involved, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 3. Subject to the conditions and limitations set forth in Section 8 hereof, the Chief of the Appellate Section is authorized to:

(A) Accept offers in compromise with reference to litigating hazards of the issues on appeal in all civil cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $200,000,

(B) Accept offers in compromise in declaratory judgment suits against the United States in which the amount of the related liability, if any, does not exceed $200,000, and

(C) Accept offers in compromise in all other nonmonetary cases which do not involve issues concerning collectibility,

provided that such action is not opposed by the agency or agencies involved or the chief of the section in which the case originated, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 4. Subject to the conditions and limitations set forth in Section 8 hereof, the Attorney-in-Charge of the Dallas Field Office is authorized to accept offers in compromise in all civil cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $10,000, provided that such action is not opposed by the agency or agencies involved, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 5. Subject to the conditions and limitations set forth in Section 8 hereof, the Chief of the Office of Review is authorized to:

(A) Accept offers in compromise in all civil cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $500,000,

(B) Approve administrative settlements not exceeding $500,000,

(C) Approve concessions (other than by compromise) of civil claims asserted by the Government in all case in which the gross amount of the original claim does not exceed $500,000,

(D) Accept offers in compromise in all nonmonetary cases, and

(E) Reject offers in compromise, or disapprove administrative settlements or concessions, regardless of amount,

provided that the action is not opposed by the agency or agencies involved or the chief of the section to which the case is assigned, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 6. Subject to the conditions and limitations set forth in Section 8 hereof, the Deputy Assistant Attorneys General and the Special Counsel to the Assistant Attorney General each is authorized to:

(A) Accept offers in compromise of claims against the Government in all cases in which the amount of the Government's concession, exclusive of statutory interest, does not exceed $750,000,

(B) Approve administrative settlements not exceeding $750,000,

(C) Accept offers in compromise of claims in behalf of the Government in all cases in which the difference between the gross amount of the original claim and the proposed settlement does not exceed $750,000 or 10 percent of the original claim, whichever is greater,

(D) Approve concessions (other than by compromise) of civil claims asserted by the Government in all cases in which the gross amount of the original claim does not exceed $750,000,

(E) Accept offers in compromise in all nonmonetary cases, and

(F) Reject offers in compromise, or disapprove administrative settlements or concessions, regardless of amount,

provided that such action is not opposed by the agency or agencies involved, and provided further that the case is not subject to reference to the Joint Committee on Taxation.

Section 7. Subject to the conditions and limitations set forth in Section 8 hereof, United States Attorneys are authorized to:

(A) Reject offers in compromise of judgments in favor of the Government, regardless of amount,

(B) Accept offers in compromise of judgments in favor of the Government where the amount of the judgment does not exceed $200,000, and

(C) Terminate collection activity by that office as to judgments in favor of the Government which do not exceed $200,000 if the United States Attorney concludes that the judgment is uncollectible.

provided that such action has the concurrence in writing of the agency or agencies involved, and provided further that this authorization extends only to judgments which have been formally referred to the United States Attorney for collection.

Section 8. The authority redelegated herein shall be subject to the following conditions and limitations:

(A) When, for any reason, the compromise or administrative settlement or concession of a particular claim, as a practical matter, will control or adversely influence the disposition of other claims totalling more than the respective amounts designated in Sections 2, 3, 4, 5, 6, and 7 the case shall be forwarded for review at the appropriate level.

(B) When, because of the importance of a question of law or policy presented, the position taken by the agency or agencies or by the United States Attorney involved, or any other considerations, the person otherwise authorized herein to take final action (or the Chief of the Office of Review, in cases which have been considered by such office) is of the opinion that the proposed disposition should be reviewed at a higher level, the case shall be forwarded for such review.

(C) If the Department has previously submitted a case to the Joint Committee on Taxation leaving one or more issues unresolved, any subsequent compromise or concession in that case must be submitted to the Joint Committee, whether or not the overpayment exceeds the amount specified in Section 6405 of the Internal Revenue Code.

(D) Nothing in this Directive shall be construed as altering any provision of Subpart Y of Part O of Title 28 of the Code of Federal Regulations requiring the submission of certain cases to the Attorney General, the Deputy Attorney General, or the Solicitor General.

(E) Authority to approve recommendations that the Government confess error, or make administrative settlements, in cases on appeal, is excepted from the foregoing redelegations.

(F) The Assistant Attorney General, at any time, may withdraw any authority delegated by this Directive as it relates to any particular case or category of cases, or to any part thereof.

Section 9. This Directive supersedes Tax Division Directive No. 47, effective March 29, 1984.

Section 10. This Directive shall become effective on the date of its publication in the **Federal Register**.

Approved: April 1, 1986.

Roger M. Olsen,

Acting Assistant Attorney General, Tax Division.

D. Lowell Jensen,

Deputy Attorney General.

[FR Doc. 86-8404 Filed 5-6-86; 8:45 am]

BILLING CODE 4410-18-M

DEPARTMENT OF TRANSPORTATION

Saint Lawrence Seaway Development Corporation

33 CFR Part 402

Tariff of Tolls

AGENCY: Saint Lawrence Seaway Development Corporation, DOT.

ACTION: Final rule.

SUMMARY: The Tariff of Tolls for the use of the St. Lawrence Seaway which is established and administered jointly by the Saint Lawrence Seaway Development Corporation, United States, and The St. Lawrence Seaway Authority, Canada, was formally revised on April 11, 1986, by means of an international agreement in the form of an exchange of diplomatic notes between the Governments of the United States and Canada. This agreement further amended the agreement dated March 9, 1959, between these two governments.

The effect of this revision is to raise the level of tolls assessed on all commodities and vessels transiting the Welland Canal section of the St. Lawrence Seaway. Increases are scheduled to become effective at the beginning of the 1986 navigation season and are necessary because of the increased costs encountered by the St. Lawrence Seaway Authority.

Under the terms of the 1986 exchange of notes the Corporation will receive, during the 1986 navigation season, 27% of the revenues generated on the Montreal-Lake Ontario section of the Seaway.

EFFECTIVE DATE: May 7, 1986.

FOR FURTHER INFORMATION CONTACT: Frederick A. Bush, Chief Counsel, Saint Lawrence Seaway Development Corporation, 400 Seventh Street SW., Washington, DC 20590, (202) 426-3325.

SUPPLEMENTARY INFORMATION: On December 19, 1985, the Saint Lawrence Seaway Development Corporation published in the **Federal Register** (50 FR 244) a notice of the proposed changes to the commodity and vessel charges for the use of the Welland Canal which are prescribed in 33 CFR Part 402.

The proposed action was to raise the level of the tolls at the Welland Canal and the proposal included the level of tolls which were to be assessed starting at the beginning of the 1986 navigation season.

In the notice of December 19, 1985, interested parties were invited to submit written views and data regarding the proposal on or before February 21, 1986, and to present oral testimony at a public hearing held in Washington, DC, on February 5, 1986. As a result, several comments were received regarding the proposed revision to the joint Tariff of Tolls.

After consideration of the proposal, the comments of interested parties and other relevant material, the Administrator of the Corporation and the President of the Authority held further discussions. These discussions led to an agreement between the Saint Lawrence Seaway Development Corporation of the United States and The St. Lawrence Seaway Authority of Canada on February 21, 1986, in which the two Seaway agencies recommended to their governments that the St. Lawrence Seaway Tariff of Tolls be modified as proposed in the December 19, 1985 notice.

As a result of this modification to the Tariff of Tolls, the average charge for moving a metric ton of cargo through the Welland Canal will increase approximately 15 percent.

Although the charges and tolls applicable to the Montreal-Lake Ontario section are not changed by this revision, § 402.8 is revised by removing from the Schedule of tolls the column headed "1982" and changing the "1983" heading to "1986", both of which are presently contained under the heading "Montreal to or from Lake Ontario."

Regulatory Evaluation

This revision involves a foreign affairs function of the United States, and therefore, Executive Order 12291 does not apply. This regulation has also been evaluated under the Department of Transportation's Regulatory Policies and Procedures and the regulation is not considered significant under those procedures and its economic impact is

expected to be so minimal that a full economic evaluation is not warranted.

Regulatory Flexibility Act Determination

The Saint Lawrence Seaway Development Corporation certifies that this regulation does not have a significant economic impact on a substantial number of small entities. The St. Lawrence Seaway Tariff of Tolls relates to the activities of commercial users of the Seaway, the vast majority of whom are foreign vessel operators. Therefore, any resulting costs will be borne by foreign vessels.

Environmental Impact

This regulation does not require an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321, *et seq.*) because it is not a major federal action significantly affecting the quality of human environment.

List of Subjects in 33 CFR Part 402

Vessels, Waterways.

PART 402—[AMENDED]

Accordingly, Part 402—Tariff to Tolls (33 CFR Part 402) is amended as follows:

1. The authority citation for 33 CFR Part 402 continues to read as follows:

Authority: 68 Stat. 93–96, 33 U.S.C. 981–990, as amended.

2. Section 402.8 is revised to read as follows:

§ 402.8 Schedule of tolls.

	Tolls	
	Montreal to or from Lake Ontario	Lake Ontario to or from Lake Erie (Welland Canal)
	1986	1986
(a) For transit of the Seaway, a composite toll, comprising:		
(1) A charge in dollars per registered ton, according to national registry of the vessel, applicable whether the vessel is wholly or partially laden, or is in ballast. (All vessels shall have an option to calculate gross registered tonnage according to prescribed rules for measurement in either Canada or the United States)	$0.08	$0.08
(2) A charge in dollars per metric ton of cargo as certified on ship's manifest or other document, as follows:		
—Bulk cargo	0.85	0.36
—General cargo	2.06	0.58
—Containerized cargo	0.85	0.36
—Government aid cargo	0.52	0.36
—Food grains	0.52	0.36
—Feed grains	0.52	0.36
(3) A charge in dollars per passenger per lock	1.00	1.00
(4) A charge in dollars per lock for complete or partial transit of the Welland Canal in either direction by cargo or passenger vessels, which may be shared by vessels in tandem:		
(i) loaded: Per Lock	NA	290.00
(ii) in ballast: Per Lock	NA	215.00
(b) For partial transit of the Seaway:		
(1) Between Montreal and Lake Ontario, in either direction 15 percent per lock of the applicable toll		
(2) Between Lake Ontario and Lake Erie, in either direction (Welland Canal), 13 percent per lock of the applicable toll		
(c) Minimum charge in dollars per vessel per lock transited for full or partial transit of the Seaway:		
—Pleasure craft	5.00	6.00
—Other vessels	10.00	11.00

Issued at Washington, DC on April 28, 1986.

Saint Lawrence Seaway Development Corporation.

James L. Emery,

Administrator.

[FR Doc. 86–10151 Filed 5–6–86; 8:45 am]

BILLING CODE 4910–61–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 166

[OPP–250075; FRL–3012–3]

Exemption of Federal and State Agencies for Use of Pesticides Under Emergency Conditions; Effective Date

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; effective date.

SUMMARY: As required by section 25(a)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA submitted a final regulation under FIFRA to both Houses of Congress for review prior to the regulation taking effect. This regulation was published in the **Federal Register** of January 15, 1986 (51 FR 1896). The minimum 60-day period for Congressional review ended on April 14, 1986.

EFFECTIVE DATE: The regulation is effective on May 7, 1986.

FOR FURTHER INFORMATION CONTACT: By mail: Franklin Gee, Registration Division (TS–767C), Office of Pesticides and Toxic Substances, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 1120B, CM#2, 1921 Jefferson Davis Highway, Arlington, VA (703–557–0592).

SUPPLEMENTARY INFORMATION: EPA issued a final regulation, which was published in the **Federal Register** of January 15, 1986 (51 FR 1896), under section 18 of FIFRA, as amended. The regulation, under 40 CFR Part 180, exempts Federal and State agencies for use of pesticides under emergency conditions. However, as required by section 25(a)(4) of FIFRA, the regulation could not take effect until it had been submitted to both Houses of Congress for a period of 60 days of continuous Congressional session, as defined by section 25(a)(4). Since it was not possible to predict an exact date on which the Congressional review period would end, the preamble to the final regulation stated that EPA would issue a separate **Federal Register** notice after the review period was over announcing the effective date of the regulation. On April 14, 1986, the 60 days of continuous Congressional session elapsed.

Accordingly, the final regulation published on January 15, 1986 (51 FR 1896) is effective on May 7, 1986.

Authority: 7 U.S.C. 136w.

List of Subjects in 40 CFR Part 166

Environmental protection, Pesticides and pests.

Dated: April 25, 1986.

Victor J. Kimm,

Deputy Assistant Administrator for Pesticides and Toxic Substances.

[FR Doc. 86–10017 Filed 5–6–86; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 4F2968/R834 FRL–3012–2]

Pesticide Tolerance; Amitraz

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This regulation establishes a tolerance for residues of the insecticide amitraz in or on the following commodities: cattle, fat; cattle, meat, cattle, meat; by-products (mbyp); milk; and milk, fat. This rule to establish the maximum permissible level for residues of amitraz in or on the above-named commodities was requested by the Nor-Am Chemical Co.

EFFECTIVE DATE: Effective on May 7, 1986.

ADDRESS: Written objections may be submitted to the: Hearing Clerk (A–110).

Environmental Protection Agency, Rm. 3708, 401 M St., SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Jay Ellenberger, Product Manager (12), Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

Office location and telephone number: Rm. 202, Crystal Mall Building #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703–557–2386).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of December 14, 1983 (48 FR 55622), that Nor-Am Chemical Co., 3509 Silverside Rd., P.O. Box 7495, Wilmington, DE 19803, had filed a petition proposing to amend 40 CFR 180.287 by establishing tolerances for the combined residues of the insecticide amitraz (*N*-(2,4-dimethylphenyl)-*N*-[[(2,4-dimethylphenyl) imino]methyl]-*N*-methylmethanimidamide) and its metabolites containing the 2,4-dimethyl aniline moiety (calculated as the parent compound) in or on the following commodities: Cattle, fat at 0.1 part per million (ppm); cattle, kidney at 0.3 ppm; cattle, liver at 0.02 ppm; cattle, meat and mbyp at 0.05 ppm; milk at 0.02 ppm; and milk, fat at 0.2 ppm. No comments were received in response to the notice of filing.

The petition was later amended by increasing the cattle mbyp from 0.05 to 0.3 ppm, increasing milk from 0.02 to 0.03 ppm, and increasing milk, fat from 0.2 to 0.3 ppm.

In April 1977, the Agency initiated a Special Review for amitraz because an 80-week mouse oncogenicity study showed a significant increase in the incidence of lymphoreticular tumors in mice. Proposed uses for amitraz pending with the Agency were for apples and pears. To determine the risks, the Agency conducted a dietary and occupational risk assessment. In reviewing the benefits and risks, the Agency determined that there would be significant benefits from the use on pears with little or no benefits from the use on apples since there were suitable alternatives. After weighing the benefits and risks, the Agency determined that the registration of amitraz for use on pears would not cause unreasonable adverse effects and would be in the public interest because it would result in substantial benefits and very small risks. Therefore, the Agency issued a conditional registration for 4 years for use of amitraz on pears. Recently, this decision was reevaluated and reaffirmed via the Registration Standard process.

One of the conditions under which amitraz was conditionally registered was the requirement that an additional mouse oncogenicity study be submitted. This study was submitted and referred to the Agency's Carcinogen Assessment Group (CAG) for evaluation. The results of this study show an increase in the incidence of hepatocellular tumors (both benign and malignant) in female mice. Based on this study and the first mouse study, CAG has determined that amitraz has carcinogenic activity in the mouse. The second study did not appreciably change the Agency's quantitative assessment of the potency of amitraz from the first mouse study. Based on the weight of evidence of analysis, CAG concluded that amitraz should be considered a possible human (a Group "C") carcinogen. The qualitative designation "C" refers to EPA's weight-of-the-evidence classification, which in this case shows amitraz to be a "possible human carcinogen." This classification is based on the Agency's published Proposed Guidelines for Carcinogen Risk Assessment (**Federal Register** of November 23, 1984 (49 FR 46294)).

In reaching this conclusion, CAG considered the following information:

1. The positive carcinogenic effects were found in only one species, the mouse;

2. Tumors were discovered mostly in animals at the scheduled terminal sacrifice;

3. The rat was negative for oncogenic effects at doses as high as 200 ppm; and,

4. There are no positive epidemiological carcinogenicity data for amitraz.

In addition, the mutagenic potential of amitraz has been determined to be negative in the gene mutation, host-mediated and dominant-lethal test systems. Studies including the Ames bacterial test, a mouse lymphoma assay, and an unscheduled DNA synthesis in human embryonic cells have been conducted with amitraz with negative results.

From the mouse oncogenicity data, the Agency has calculated upper-bound estimates of risks from the use of amitraz on cattle. The risk from dietary exposure is approximately 10^{-5}, i.e., 1 chance in 100,000. It should be noted that this number represents the upper bound estimate of excess oncogenic risk at the 95-percent confidence level and that the actual risk may be lower.

The assessment is also based on the following assumptions:

1. The metabolic pathway of amitraz in humans is presumed to be the same as that found in test animals;

2. The highest value of risk obtainable from the animal data is applicable to humans.

3. All cattle raised in the United States will be treated with amitraz; and,

4. All edible cattle tissue and milk will contain amitraz at the full tolerance levels.

As stated above, however, EPA believes that the actual risks will be less than 10^{-5}.

For the proposed use of cattle, the Agency has also calculated a risk estimate from dermal exposure to applicators. The risk to applicators is between 10^{-6} and 10^{-5}.

As previously stated in this document, the Agency conducted a dietary and applicator risk assessment to determine the risks from the pear use. The risks were reassessed during the development of the registration standard for amitraz using the results of the second mouse oncogenicity study. The dietary risk from consuming amitraz-treated pears, using the same conservative assumptions described above, is estimated to be 10^{-5}, and the applicator risk is between 10^{-4} and 10^{-6}. The Agency also assessed the dietary and applicator risks associated with the use on pears using more realistic assumptions. These assumptions were as follows: Only 40 to 50 percent of the pears acreage is treated annually with amitraz and that the residues present average only 1.0 ppm instead of the full tolerance of 3.0 ppm. Also, applicators, mixers, and loaders are required to wear protective clothing. This more realistic approach leads of risks to 10^{-6} for dietary and 10^{-5} to 10^{-6} for applicator exposure.

The dietary risk estimated to occur from the use of amitraz on cattle is the same level as the risk estimated from the use of amitraz on pears, using the most conservative approach of calculating risk. The risk estimated for applicators from the proposed cattle use is very similar to risks expected from the use on pears. Therefore, the Agency expects little if any incremental increase in risk to occur as the result of the use of amitraz on cattle.

The chronic toxicology data base for amitraz is complete. The toxicological data considered in support of this petition include a 2-year rat feeding/oncogenicity study which was negative for oncogenic effects with a no-observed-effect level (NOEL) of 200 ppm; a three-generation rat reproduction study with a NOEL of 15 ppm; rat and rabbit teratology studies which were negative; and a 2-year mouse oncogenicity study which demonstrated an increase in the incidence of

hepatocellular tumors in female mice. Based on a 2-year dog feeding study with a NOEL of 10 ppm and using a safety factor of 100, the acceptable daily intake (ADI) for humans is calculated to be 0.0025 mg/kg of body weight (bw) day. The theoretical maximum residue contribution (JMRC) resulting in the human diet from this and previously established tolerances utilizes 37.8 percent of the ADI.

On the basis of the available data on amitraz, the Agency has concluded that the human risk posed by the use of amitraz on cattle does not raise prudent concerns of unreasonable adverse effects.

The nature of the residue is adequately understood, and an adequate analytical method, gas chromatography, is available for enforcement purposes.

There are no regulatory actions pending against the continued registration of this chemical.

Based on the above information considered by the Agency, it is concluded that the pesticide is considered useful for the purpose for which the tolerances are sought, and it is concluded that the establishment of the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601–612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(d)(2), 68 Stat. 512 (21 U.S.C. 346a(d)(2)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests.

Dated: April 25, 1986.

Steven Schatzow,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.287 is amended by revising the entries for cattle, fat; cattle, mbyp; and cattle, meat and by adding and alphabetically inserting entries for milk and milk, fat, to read as follows:

§ 180.287 Amitraz; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Cattle, fat	0.1
Cattle, mbyp	0.3
Cattle, meat	0.05
* * * * *	
Milk	0.03
Milk, fat	0.3
* * * * *	

[FR Doc. 86–10018 Filed 5–6–86; 8:45 am]

BILLING CODE 6560–50–M

COUNCIL ON ENVIRONMENTAL QUALITY

40 CFR Part 1502

National Environmental Policy Act Regulations; Incomplete or Unavailable Information; Correction

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Final rule correction.

SUMMARY: On Friday, April 25, 1986, the Council on Environmental Quality (CEQ) published a final rule which amended 40 CFR 1502.22, "Incomplete or unavailable information." 51 FR 15,618. The preamble to the regulation contained five textual errors which we correct with this notice.

FOR FURTHER INFORMATION CONTACT: Dinah Bear, General Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, DC 20006. (202) 395–5754.

SUPPLEMENTARY INFORMATION:

At page 15619, top of second column: Delete first two lines of text. In the same column, in the paragraph beginning with the word "Because": at line ten, insert a space and the word "The" between "(1978)." and "Council."

At page 15620, last paragraph of third column: Delete beginning at the word "environment" in the eleventh line through the end of the third column, except for the footnote.

At page 15621, first full paragraph of the first column, beginning with "Subsection (b)", substitute the following paragraph:

"Subsection (b) is amended to require federal agencies to include four items in an EIS if the information relevant to reasonably foreseeable significant adverse impacts remains unavailable because the overall costs of obtaining it are exorbitant or the means to obtain it are not know. The first step is disclosure of the fact that such information is incomplete or unavailable; that is, "a statement that such information is incomplete or unavailable." The second step is to discuss why this incomplete or unavailable information is relevant to the task of evaluating reasonably foreseeable significant adverse impacts; thus, "a statement of the relevance of the imcomplete or unavailable information to evaluating reasonably foreseeable significant adverse impacts on the human environment." Third, the agencies must state what existing credible scientific evidence says about such impacts; therefore, "a summary of existing credible scientific evidence which is relevant to evaluating the reasonably foreseeable significant adverse impacts on the human environment." Fourth, the agency must use sound scientific methods to evaluate the potential impacts; or in the words of the regulation, "the agency's evaluation of such impacts based upon theoretical approaches or research methods generally accepted in the scientific community."

At page 15625, the first full paragraph of the second column, beginning with *"Response:* CEQ", subsitute the following paragraphs:

"Response: CEQ manifests its oversight of the NEPA process in a number of ways on a daily basis; for example, reviews agency NEPA procedures, resolves referrals of proposals for major federal actions, and assists parties on an individual basis in resolving difficulties with the NEPA process.

"In the course of reviewing the regulation, considering the need for amendment of the regulation, and development of the proposed amendment, CEQ consulted with all federal agencies.

Such consultation is a normal part of developing or amending the NEPA regulations, which are binding on all federal agencies. CEQ also expended considerable efforts to consult with all interested parties outside of the federal government.

"Collateral estoppel is a doctrine by which a party may be barred from relitigating a question decided in a prior case. It does not bar an agency from changing a regulation that the courts have interpreted."

Dated: May 1, 1986.

A. Alan Hill,

Chairman.

[FR Doc. 86-10172 Filed 5-6-86; 8:45 am]

BILLING CODE 3125-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 2

[General Dockets 84-689 and 84-690; FCC 86-163]

Amendment of the Commission's Rules To Allocate Spectrum for, and To Establish Other Rules and Policies Pertaining to, a Radiodetermination Satellite Service; and Policies and Procedures for the Licensing of Space and Earth Stations in the Radiodetermination Satellite Service

AGENCY: Federal Communications Commission.

ACTION: Memorandum opinion and order granting in part and denying in part three petitions for reconsideration and a petition for clarification of final order.

SUMMARY: This action responds to petitions filed by four parties requesting reconsideration and clarification of the Commission's decision to allocate spectrum for a Radiodetermination-Satellite Service (RDSS). RDSS is a new service whereby accurate position information will be provided via satellite to terrestrial receivers. This action addresses issues raised in the petitions, in particular, the question of need for a specrum allocation for RDSS in view of other available systems. The Commission, in this document, affirms its initial decision and clarifies certain points.

EFFECTIVE DATE: June 6, 1986.

ADDRESS: Federal Communications Commission, 1919 M Street N.W. Washington, DC. 20554.

FOR FURTHER INFORMATION CONTACT: Julius P. Knapp, Office of Engineering and Technology, Spectrum Engineering Division, Frequency Allocations Branch, Telephone: (202) 653-8113.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Memorandum Opinion and Order in General Dockets 84-689 and 84-690, FCC 86-163, Adopted April 10, 1986, and Release April 28, 1986.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 837-3800, 2100 M Street NW., Suite 140, Washington, DC 20037.

Summary of Memorandum Opinion and Order

In this *Memorandum Opinion and Order* (MO&O), we are considering petitions for reconsideration filed by Omninet Corporations, Wismer and Becker Contracting Engineers/Transit Communications Inc. and the National Academy of Sciences, and a petition for clarifications filed by Rockwell International Corp., with regard to the *Report and Order* (*R&O*) in the above captioned proceeding (50 FR 39101). The R&O allocated frequencies for a radiodetermination satellite service (RDSS).

The Commission confirms, as requested by Omninet, that the earlier decision did not specifically limit the services that RDSS licensees may provide nor was any finding made with regard to comparative accuracies of RDSS technologies.

The Commission finds that the existence of the federal government's Global Positioning Service (GPS) does not make superfluous that allocation of spectrum for GPS. Transit's petition presents no new information and lacks merit.

As requested by Rockwell, the Commission clarifies that it did not intend to imply that an enhanced GPS system could not provide the same degree of accuracy as RDSS.

The National Academy of Sciences request to establish a primary allocation status in one of the bands allocated to RDSS was denied. Primary allocation status has not been shown to be necessary at this time.

Ordering Clause

Accordingly, it is ordered that the petition for reconsideration filed by Omninet Corporation and petition for limited clarification filed by Rockwell International Corporation are granted to the extent indicated herein; and, the petition for reconsideration filed by Wisemer and Becker/Transit Communications, Incorporated and the petition for partial reconsideration filed by the National Academy of Sciences are denied. Authority for this action is contained in 47 U.S.C. 4(i) and 303(r).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 86-10104 Filed 5-6-86; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. 81-11; Notice 18]

Federal Motor Vehicle Safety Standards; Lamps, Reflective Devices, and Associated Equipment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: *Changes in Replaceable Light Source Specifications.* This notice amends Safety Standard No. 108 to modify the specifications for the standardized replaceable light source. This will allow a manufacturer to determine the diameter of the glass capsule, while specifying the location of the black cap for assuring the interchangeability of the standardized light source in different lamp designs to achieve the required photometric performance. The amendment relieves certain design restrictions currently in effect, and achieves greater interchangeability for the light source. A notice of proposed rulemaking was published on September 18, 1985.

EFFECTIVE DATES: The effective date for the amendment to Figure 3-2 is November 3, 1986. The effective date for the remaining amendments is May 7, 1986.

ADDRESS: Petitions for reconsideration should be addressed to: Administrator, NHTSA, 400 Seventh Street SW., Washington, DC 20590.

FOR FURTHER INFORMATION CONTACT: Richard Van Iderstine, Office of Rulemaking, National Highway Traffic Safety Administration, Washington, DC 20590 (202-426-2720).

SUPPLEMENTARY INFORMATION: On September 18, 1985, NHTSA proposed certain modifications to the standardized replaceable light source which is specified by Motor Vehicle Safety Standard No. 108 for use in headlamps (50 FR 37882). The purpose of the proposal was to allow a manufacturer more flexibility in

specifying the diameter of the glass capsule of the light source, and to revise the method for specifying the location of the black cap.

The proposal incorporated the following elements: a revised "interchangeability drawing" for the headlamp bulb assembly's halogen capsule (Figure 3–5) with certain angles and dimensions different than those presently specified; a revised lumen test necessitated by testing the light source with the black cap in place, requiring amendments to paragraph S4.1.1.38 (the test being currently performed without the black cap); finally, a modification in the allowable tolerances of the light source with a view towards a more accurate orientation of beam pattern, while permitting greater headlamp styling freedom. Here NHTA proposed tolerances petitioned for by General Motors, and NHTSA's own alternative values.

Comments were received on the proposal from vehicle manufacturers (Chrysler Corporation, American Motors Coporation, SAAB-Scania of North America, Volkswagen of America, General Motors Corporation, Ford Motor Company), lighting equipment manufacturers (Koito Manufacturing Co., GTE/Sylvania, General Electric Company, North American Philips Lighting Corporation), the Department of California Highway Patrol, and the SAE Replaceable Headlamp Bulb Task Force. The proposal was supported, with suggested modifications.

The purpose of the rulemaking with respect to the location of the black cap was to relieve a burden to manufacturers of having to build a light source with a narrowly specified glass cap diameter. To accomplish this, the location of the black cap and that of the undistorted glass must be specified in a manner which would be tolerant of changes in diameter while assuring that photometric performance was maintained. This led to the angular method used in the Notice of Proposed Rulemaking for specifying these locations. The method of dimensioning used the light source base as a reference because this would provide the easiest measurement reference for determining compliance of these parameters, and measurements could be more easily performed using vernier calipers rather than the more difficult optical comparator.

The proposed method of specifying the black cap location assumed that it would be installed on the light source after the capsule was installed on the base, but as commenters pointed out, this is not always the way that a light source is manufactured. Sylvania, for example, first installs the black cap on the capsule, then determines for what application the completed capsule will be used. This, the method NHTSA proposed would impose a burden of tolerance stackup which has the potential of creating noncompliances or possible photometric errors if the assembly procedure remained unchanged. Therefore, Sylvania and other commenters recommended using the actual location of the lower beam filament as a reference. NHTSA considers this a reasonable alternative, and in view of the fact that some manufacturers are already producing light sources in the fashion, the agency is amending Figure 3–5 to accommodate this comment.

Commenters also suggested that NHTSA adopt other changes for Figure 3–5 which would help clarify it, namely the revisions put forth by the SAE Replaceable Headlamp Bulb Task Force. These involve deletion of certain dimensions and redrawing of others, and changes in Notes. NHTSA has made appropriate modifications in line with the comments.

The September 1985 notice proposed alternative tolerances for the lower beam filament, one based upon a set of tolerances petitioned for by General Motors, and the other developed by NHTSA. Commenters objected to both alternatives, and recommended the tolerances developed by the SAE Task Force. These tolerances are based upon those that industry believes are consistently achievable with today's state-of-the-art in production machinery and quality assurance equipment. Ford and VW commented that the SAE tolerances would help improve the maintenance of beam pattern after bulb replacement. Tighter filament tolerances will also permit greater freedom in headlamp styling and manufacture. Judging by the comments received on the notice, there is little support for retaining the existing tolerances, and little support for either the GM or NHTSA alternative tolerances that were proposed. The SAE tolerances lie between the current ones and those proposed; since this represents a consensus among those who chose to comment, NHTSA has adopted it, and is amending the dimensions in Figure 3–2 appropriately. The new tolerances for the lower beam ahead/behind are plus or minus 0.010 inch, and plus or minus 0.015 inch for up/down and left/right. For the upper beam, the tolerance is 0.025 inch for ahead/behind and up/down, and 0.032 inch for left/right.

Comments about lumen values generally accorded with the proposal, to test with the black cap on, rather than without. SAAB argued that the values were too low while the California Highway Patrol thought that there was a large disparity in making the conversion from values without a black cap to those with a cap. NHTSA believes that a number of factors must be considered when making such a conversion. The black cap blocks off light to the front of the capsule and causes a drop in light output, but the filament still emits the same amount of light as it did without the cap. The location of the cap may vary plus or minus 1 mm. Filament variances plus cap location will cause a greater variation of light output from a capped bulb, than one that has no cap, where only the filament variances affect light output. These two factors cause a drop in measured light output from capped bulbs and cause the tolerance to increase. However, the light source is still the same one that had previously been tested without the black cap, and is still designed to conform to the other requirements so that the headlamp will perform in accordance with the requirements of the standard, and thus the lumen values have been adopted as proposed.

Koito requested that a more detailed specification be provided for the "opaque white colored cover" that is to be used in the lumen test (S4.1.1.38(b)(7)). The agency has added this clarification to the language otherwise proposed and adopted: "This cover shall be used to eliminate the likelihood of incorrect lumen measurement that would occur should the reflectance of the light source base and electrical connector be low."

The agency had proposed that the amendments be effective upon publication of the final rule in the **Federal Register**. Ford commented that this would be impracticable in that it would not allow enough time for both vehicle and light source manufacturers to prepare for building complying hardware, and it asked for lead time of one year. No other vehicle or light source manufacturer requested such an extension, and the agency has concluded that no need has been shown for a delay of the nature Ford requested.

Therefore, amendments that reduce an industry burden (those pertaining to capsule diameter, black cap placement, and revised lumen values) are made effective on the publication date of the final rule, as proposed. However, the amendment that places tighter tolerances on the filaments, and thus which has the potential of increasing an industry burden, will become effective six months following the publication of the rule.

Except for the amendment to Figure 3–2, the amendments are effective upon publication of the final rule in the **Federal Register.** Beacuse the rule would relieve a restriction and create no additional burden, it is hereby found for good cause shown that an effective date earlier than 180 days after issuance of the final rule is the public interest. The amendment to Figure 3.2 is effective November 3, 1986.

NHTSA has considered this rule and has determined that it is not major within the meaning of Executive Order 12291 "Federal Regulation" or significant under Department of Transportation regulatory policies and procedures, and that neither a regulatory impact analysis nor a full regulatory evaluation is required. While the rule does impose minor additional requirements and costs, it also permits manufacturers greater flexibility in the styling and design of headlighting systems.

NHTSA has analyzed this rule for the purposes of the National Environmental Policy Act. The rule would have no effect on the human environment since the weight and quantity of materials used in the manufacture of headlamps would not be changed.

The agency has also considered the impacts of the rule in relation to the Regulatory Flexibility Act. I certify that this rule will not have a significant economic impact on a substantial number of small entities. Accordingly, no regulatory flexibility analysis has been prepared. Manufacturers of motor vehicles and headlamps, those affected by the rule are generally not small businesses within the meaning of the Regulatory Flexibility Act. Finally, small organizations and governmental jurisdictions will not be significantly affected since the price of new vehicles and headlamps will be minimally impacted.

The engineer and lawyer primarily responsible for this proposal are Richard Van Iderstine and Taylor Vinson, respectively.

List of Subjects in 49 CFR Part 571

Imports, Motor vehicle safety, Motor vehicles, Rubber and rubber products, Tires.

PART 571—[AMENDED]

In consideration of the foregoing, 49 CFR 571.108, Motor Vehicle Safety Standard No. 108, *Lamps, Reflective Devices, and Associated Equipment,* is amended as follows:

1. The authority citation for Part 571 continues to read as follows:

Authority: 15 U.S.C. 1392, 1401, 1403, 1407; delegation of authority at 49 CFR 1.50.

§ 571.108 [Amended]

2. The first sentence of paragraph (b) of paragraph S4.1.1.38 is revised to read:

(b) The standardized replaceable light source shall meet the requirements in paragraphs (b)(1) through (b)(7) of this section.

3. In paragraph (b)(1) of paragraph S4.1.1.38 the tabular portion of the general specifications is amended by revising the entry for lumens to read as follows:

	Lower beam	Upper beam
. . .	.	.
Lumens (with black cap at 12.8V design voltage)	700 +/ −15%	1200 +/ −15%
. . .	.	.

4. A new paragraph (b)(7) is added to paragraph S4.1.1.38 to read:

(b)(7) Lumens shall be measured in accordance with the Illuminating Society of North America, LM–45: IES Approved Method for Electrical and Photometric Measurements of General Service Incandescent Filaments Lamps (April 1980), and with that electrical connector and light source base (except for the portion normally located within the interior of a lamp housing) shrouded with an opaque white colored cover. This cover shall be used to eliminate the likelihood of incorrect lumen measurement that would occur should the reflectance of the light source base and electrical connector be low.

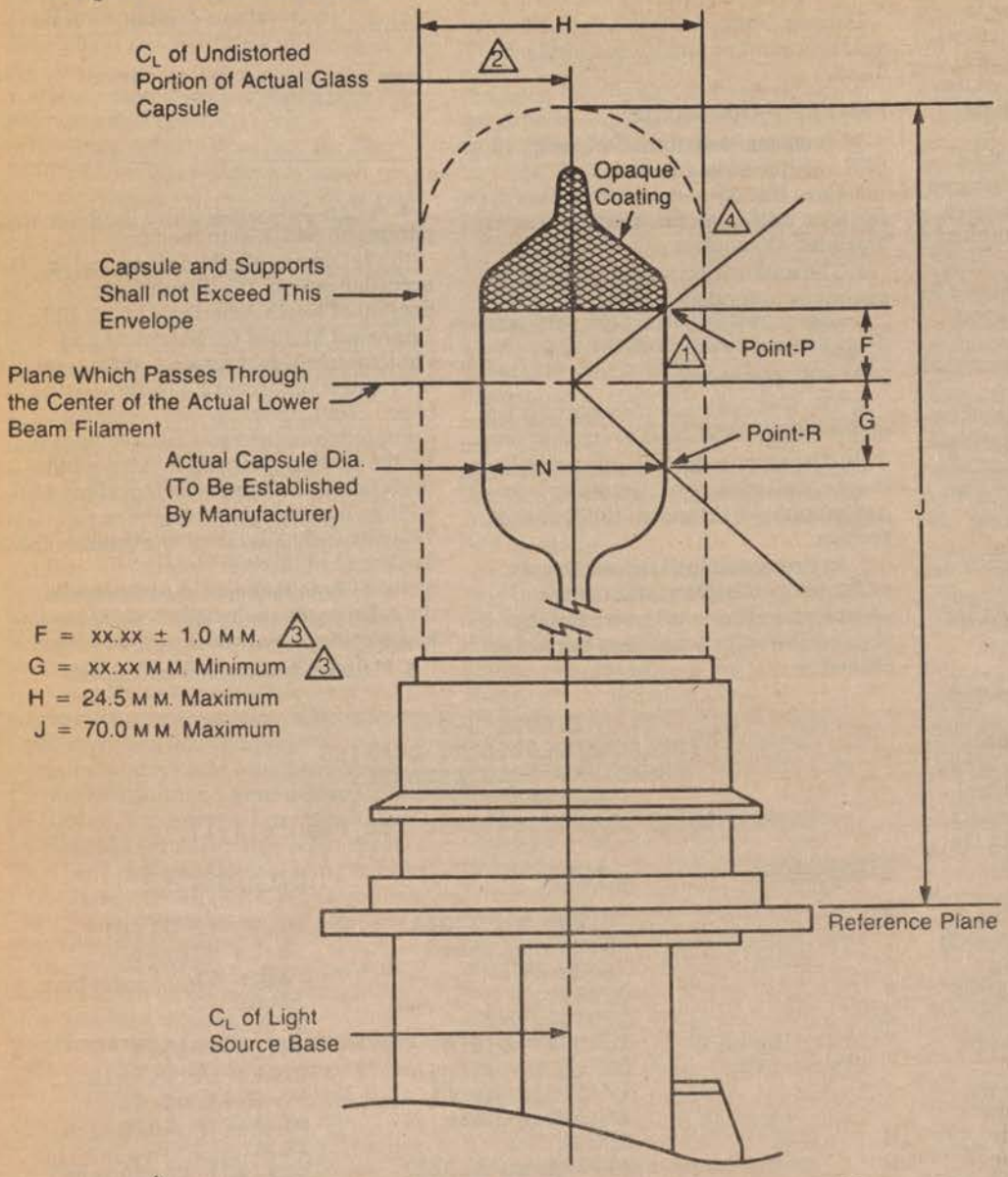
5. Figure 3–2 is revised as follows:

FIGURE 3-2
INTERCHANGEABILITY DRAWING
HEADLAMP BULB ASSEMBLY

[Dimensional specifications for Figure 3-1]

DIMENSION	INCHES	MILLIMETERS
A	(0.085 to 0.083) 0.002 either side CL	(2.15 to 2.10) 0.05 either side CL
F	0.906	23.00
H	0.079	2.00
K:Lower beam	1.752+/-0.010	44.50+/-0.25
Upper beam	CL to be within +/-0.025 of CL of lower beam	CL to be within +/-0.64 of CL of lower beam
M	0.974	24.75
N	(1.335 to 1.331) 0.002 either side CL	(33.90) to (33.80) 0.05 either side CL
O	0.517+/-0.020	13.13+/-0.50
P	1.673	42.50
R	(1.126 to 1.122) 0.002 either side CL	(28.60 to 28.50) 0.05 either side CL
U	1.181	30.00
V	0.413	10.50
W	0.128	3.25
X	0.189	4.80
AC	0.045+/-0.015	1.15+/-0.38
AD	0.091+/-0.025	2.30+/-0.64
AE	0.047+/-0.015	1.20+/-0.38
AF	0.094+/-0.032	2.40+/-0.81
AH	0.356	9.05
AM	0.415	10.54
AN	0.673	17.10

6. Figure 3–5 is revised as follows:



1. Glass Capsule Periphery Shall be Optically Distortion Free Between the Planes Perpendicular to the Centerline at Points P and R.

2. Diameter "H" Shall be Concentric with the Centerline of the Light Source Base.

3. Exact Values of F and G Shall be Determined by Using the Following:
F = (N/2) Tan 38
G = (N/2) Tan 43

4. Entire Radius and Distorted Glass Shall be Covered to the Plane Passing Through Point "P", Perpendicular to the Glass Capsule Centerline.

Figure 3-5. Halogen Capsule

7. Figure 3–6 is removed.

Issued on April 29, 1986.

Diane K. Steed,

Administrator.

[FR Doc. 86–10021 Filed 5–6–86; 8:45 am]

BILLING CODE 4910–59–M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1011

Delegation of Authority to the Motor Carrier Board

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission is exercising its authority under 49 U.S.C. 10305(a) to delegate the processing of certain types of finance transactions from Divisions of the Commission to the Office of Proceedings' Motor Carrier Board. These transactions include the transfer of brokers' licenses and Certificates of Registration, and the change in control of brokers. The Commission has determined that these proceedings can be processed more efficiently by the Office of Proceedings. Appropriate revisions in the Code of Federal Regulations will be made to reflect this action.

EFFECTIVE DATE: This decision is effective May 8, 1986.

FOR FURTHER INFORMATION CONTACT: Howell I. Sporn, (202) 275–7691

or

Warren C. Wood, (202) 275–7977.

SUPPLEMENTARY INFORMATION: By action of July 26, 1984, 49 FR 31070 (August 3, 1984), the Commission recalled certain types of finance transactions that were previously handled by the Office of Proceedings' Review Board and delegated the processing of these transactions to Divisions of the Commission. These transactions included applications seeking the transfer of brokers' licenses and Certificates of Registration and applications for approval of the change in control of brokers. See 49 CFR 1011.6(e)(3).

We have determined that these proceedings can be processed more efficiently by the Office of Proceedings' Motor Carrier Board. Accordingly, under 49 U.S.C. 10305(a), we shall revise the regulations at 49 CFR 1011.6(e)(3) and 1011.6(k), as set forth in the Appendix, to reflect this action. Because the rule revisions only affect internal Commission procedures, they are issued here in final form. Public comment is not required. 5 U.S.C. 553(b)(A).

This action does not significantly affect the quality of the human environment or the conservation of energy resources.

List of Subjects in 49 CFR Part 1011

Administrative practice and procedure, Authority delegations.

Dated: April 4, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre and Lamboley.

James H. Bayne,

Secretary.

Appendix

PART 1011—[AMENDED]

Part 1011 of Title 49 of the CFR is amended as follows:

1. The authority citations following §§ 1011.4, 1011.5, 1011.6, 1011.7 and 1011.8 are removed, and the authority citation for 49 CFR Part 1011 continues to read as follows:

Authority: 49 U.S.C. 10301, 10302, 10304, 10305, 10321; 31 U.S.C. 9701; 5 U.S.C. 553.

2. Paragraph (e)(3) of § 1011.6 is removed, and paragraphs (e)(4), (5), and (6) are redesignated as (e)(3), (4), and (5), respectively.

3. Section 1011.6 is amended by removing the word "and" at the end of paragraph (k)(2).

4. Section 1011.6 is amended by replacing the period at the end of paragraph (k)(3) with a comma.

5. Section 1011.6 is amended by replacing the period at the end of paragraph (k)(4) with a comma and by adding the word "and" to follow that comma.

6. Section 1011.6 is amended by revising the heading and by adding a new paragraph (k)(5) to read as follows:

§ 1011.6 Employee Boards and Divisions of the Commission.

* * * * *

(k) * * *

(5) Applications which have not involved taking testimony at a public hearing or the submission of evidence by opposing parties in the form of affidavits, under (i) 49 U.S.C. 10321, relating to the transfer of brokers' licenses and changes in control of brokers, and (ii) 49 U.S.C. 10931 and 10932 relating to transfer of Certificates of Registration and rights to operate pending determination of application for Certificates of Registration.

[FR Doc. 86–10215 Filed 5–6–86; 8:45 am]

BILLING CODE 7035-01-M

49 CFR Parts 1105 and 1152

[Ex Parte No. 274 (Sub-13)]

Rail Abandonments—Use of Rights-of-Way as Trails

AGENCY: Interstate Commerce Commission.

ACTION: Final rules.

SUMMARY: The Commission is adopting final rules to implement section 208 of the National Trails System Act Amendments of 1983, Pub. L. No. 98–11, [codified at 16 U.S.C. 1247(d)]. The rules give interested persons the opportunity to negotiate voluntary agreements to use, for recreational trails, rights-of-way of railroad lines approved for abandonment. Trail use is subject to future restoration and reconstruction of the right-of-way for railroad purposes. In addition, trail use is not to be treated as an abandonment of the right-of-way for railroad purposes. Therefore, any law that would otherwise result in reversion of the right-of-way is preempted. The regulations at 49 CFR Parts 1105 and 1152 are amended as set forth in the Appendix.

DATE: The rules will be effective on June 6, 1986.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

This action will not have a significant economic impact on a substantial number of small entities.

This action will enhance the quality of the human environment and energy conservation.

List of Subjects in 49 CFR Parts 1105 and 1152

Administrative practice and procedure, Environmental protection, National trails systems, Natural resources, Recreation, Recreation areas, Railroads.

Decided: April 16, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley. Commissioner Lamboley commented with a separate expression.

James H. Bayne,

Secretary.

Appendix

Title 49, Subtitle B, Chapter X, Parts 1152 and 1105 of the Code of Federal Regulations are amended as follows:

PART 1152—[AMENDED]

1. The authority citation for 49 CFR Part 1152 is revised to read as follows:

Authority: 49 U.S.C 10321, 10326, and 10905; 16 U.S.C. 1247(d); and 5 U.S.C. 553.

2. The notice form in § 1152.21 is amended by: (1) Removing the word "and" in item (iv) of the form; (2) changing the period to a semicolon at the end of item (v) of the form and adding the word "and" after that semicolon; and (3) adding a new item item (vi) to the form at the end of the list of terms preceded by the words: "In addition, a commenting party or protestant may provide a statement of position and a summary of evidence regarding:" to read as follows:

§ 1152.21 Form of notice.

* * * * *

(vi) prospective use of the right-of-way for interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29.

* * * * *

3. Section 1152.25 is amended by: (1) removing the word "and" in paragraph (a)(2)(iv); (2) changing the period to semicolon at the end of paragraph (v) and adding the word "and" after the semicolon and (3) adding a new paragraph (vi) to read as follows:

§ 1152.25 Participation in abandonment or discontinuance proceedings.

(a) * * *

(2) * * *

(vi) prospective use of the right-of-way for interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29.

* * * * *

4. Part 1152 is amended by adding new § 1152.29 to read as follows:

§ 1152.29 Prospective use of rights-of-way for interim trail use and rail banking.

(a) If any state, political subdivision, or qualified private organization is interested in acquiring or using a right-of-way of a rail line proposed to be abandoned for interim trail use and rail banking pursuant to 16 U.S.C. 1247(d), it must file a comment (in a regulated abandonment proceeding) or a petition (in an exemption proceeding) indicating that it would like to do so. The comment or petition must include:

(1) A map depicting, and an accurate description of, the right-of-way, or portion thereof (including mileposts), proposed to be acquired or used;

(2) A statement indicating the user's willingness to assume full responsibility: for managing the right-of-way; for any legal liability arising out of the use of the right-of-way (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability); and for the payment of all taxes assessed against the right-of-way; and

(3) An acknowledgment that interim trail use is subject to the user's continuing to meet its responsibilities described in paragraph (a)(2) of this section, and subject to possible future reconstruction and reactivation of the right-of-way rail service. The statement must be in the following form:

Statement of Willingness to Assume Financial Responsibility

In order to establish interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29,_____ (Interim Trail User) is willing to assume full responsibility for management of, for any legal liability arising out of the transfer or use of (unless the user is immune from liability, in which case it need only indemnify the railroad against any potential liability), and for the payment of any and all taxes that may be levied or assessed against the right-of-way owned by _____ (Railroad) and operated by _____ (Railroad). The property, known as _____ (Name of Branch Line), extends from railroad milepost _____, near_____(Station name), to railroad milepost_____, near _____ (Station name), a distance of _____ miles in _____ County(ies), _____ (State(s)). The right-of-way is part of a line of railroad proposed for abandonment in Docket No. AB–_____ (Sub-No. _____

A map of the property depicting the right-of-way is attached.

_____ (Interim Trail User) acknowledges that use of the right-of-way is subject to the user's continuing to meet its responsibilities described above and subject to possible future reconstruction and reactivation of the right-of-way for rail service. A copy of this statement is being served on the railroad(s) on the same date it is being served on the Commission.

(b) (1) In regular (regulated) abandonment proceedings under 49 U.S.C. 10903–04, interim trail use statements must be filed within the 30-day protest and comment period following the date the abandonment application is filed. *See* § 1152.25(c).

(2) In exemption proceedings, a petition containing an interim trail use statement must be filed within 10 days after the date the Notice of Exemption is published in the **Federal Register.**

(3) If the regular abandonment or exemption request is investigated, comments will be accepted at any time during the time provided for making evidentiary filings in the investigation.

(4) In Conrail abandonment proceedings under NERSA, interim trail use statements must be filed within 60 days after the date that Conrail's abandonment application is filed.

(5) When an interim trail use comment(s) or petition(s) is filed, the railroad must submit a reply to the Commission within 10 days after the date the Commission issues a Notice of Findings in regular abandonment proceedings, and within 10 days after the date a petition requesting interim trail use is filed in an exemption or NERSA proceeding indicating whether and with whom it intends to negotiate an agreement.

(c) *Regular and NERSA Abandonment Proceedings.* (1) If continued rail service does not occur pursuant to § 1152.27, and a railroad intends to enter into an interim trail use/rail banking agreement, then the Commission will issue a Certificate of Interim Trail Use or Abandonment (CITU) to the railroad and to the interim trail user for that portion of the right-of-way to be covered by the agreement. The CITU will: permit the railroad to discontinue service, cancel tariffs, and salvage track and material consistent with interim trail use and rail banking, as long as it is consistent with any other Commission order, 30 days after the date it is issued (10 days after issuance in Conrail proceedings); and permit the railroad to fully abandon the line if no agreement is reached 180 days after it is issued, subject to appropriate conditions,

including labor protection, and environmental matters.

(2) The CITU will indicate that interim trail use is subject to future restoration of rail service, and subject to the user continuing to meet the financial obligations for the right-of-way. The CITU will also indicate that, if the user intends to terminate trail use, it must send the Commission a copy of the CITU and request that it be vacated on a specified date. The owner of the right-of-way will be permitted to abandon it on that date.

(3) If an application to construct and operate a rail line over the right-of-way is authorized under 49 U.S.C. 10901 and 49 CFR 1150, or exempted under 49 U.S.C. 10505, then the CITU will be vacated accordingly.

(d) *Exempt Abandonment Proceedings.* (1) If a railroad intends to enter into an interim trail use/rail banking agreement, then the Commission will issue a Notice of Interim Trail Use or Abandonment (NITU) to the railroad and to the interim trail user for the portion of the right-of-way to be covered by the agreement. The NITU will permit the railroad to discontinue service, cancel tariffs, and salvage track and materials, consistent with interim trail use and rail banking, 30 days after the date it is issued, and permit the railroad to fully abandon the line if no agreement is reached 180 days after it is issued, subject to appropriate conditions, including labor protection, and environmental matters.

(2) The NITU will indicate that interim trail use is subject to future restoration of rail service, and subject to the user continuing to meet the financial obligations for the right-of-way. The NITU will also indicate that if the user intends to terminate trail use, it must send the Commission a copy of the NITU and request that it be vacated on a specific date. The Commission will reopen the exemption proceeding, vacate the NITU, and reissue a Notice of exemption for that portion of the right-of-way. Copies of the reissued Notice of exemption will be sent to the owner of the right-of-way and the former trail user.

(3) If an application to construct and operate a rail line over the right-of-way is authorized under 49 U.S.C. 10901 and 49 CFR Part 1150, or exempted under 49 U.S.C. 10505, then the NITU will be vacated accordingly.

4. Section 1152.50(d)(4) is revised to read as follows:

§ 1152.50 Exempt abandonments and discontinuances of service and trackage rights.

* * * * *

(d) * * *

(4) Exempt abandonments and discontinuances of service and trackage rights. To address: (i) environmental issues; (ii) whether the right-of-way is suitable for other public purposes under 49 U.S.C. 10906; and (iii) in abandonment proceedings only, prospective use of the right-of-way for interim trail use and rail banking under 16 U.S.C. 1247(d), interested persons must submit evidence and comments within 10 days of publication in the **Federal Register.** [Follow § 1152.28(a)(2) for public use conditions under section 10906, and follow § 1152.29(a) and (d) for interim trail use and rail banking under section 1247(d).] A notice to the parties will be issued if use of the exemption is subject to environmental or public use conditions, and if interim trail use and rail banking is feasible.

PART 1105—[AMENDED]

5. The authority citation for 49 CFR Part 1105 is revised to read as follows:

Authority: 49 U.S.C. 10321, 10505, and 10903–10906; 16 U.S.C. 1247(d); 42 U.S.C. 4332; and 5 U.S.C. 553 and 559.

6. The Form For Environmental Notice in § 1105.11 is amended by adding a new item (11) at the end of the list of issues proceeded by the words: "Areas of concern, which you and other interested State and local agencies are invited to address, include but are not limited to the following:" to read as follows:

§ 1105.11 Environmental notice.

* * * * *

(11) Prospective use of the right-of-way for interim trail use and rail banking under 16 U.S.C. 1247(d) and 49 CFR 1152.29.

* * * * *

[FR Doc. 86–10188 Filed 5–6–86; 8:45 am]
BILLING CODE 7035-01-M

Proposed Rules

Federal Register
Vol. 51, No. 88
Wednesday, May 7, 1986

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

DEPARTMENT OF ENERGY

10 CFR Part 300

Coal Loan Guarantee Program

AGENCY: Department of Energy.

ACTION: Proposed Suspension of Activity Under the Coal Loan Guarantee Program.

SUMMARY: This is notice that the Department of Energy (DOE) proposes to suspend activity under the Coal Loan Guarantee Program, 10 CFR Part 300, for loan guarantees for the purposes of developing, expanding, or reopening underground coal mines, and to terminate the acceptance of applications thereunder. This action is being taken in view of the fact that no loan guarantees have been granted since the program's implementation in 1978.

DATE: Comment must be received no later than June 6, 1986.

ADDRESS: Address comments to the Office of Coal Utilization Systems, FE–23, Department of Energy, Washington, DC 20545. The envelope must also display the following designation: "CLGP activity suspension."

FOR FURTHER INFORMATION CONTACT:

Mr. Peter Muchunas, Department of Energy, Office of Coal Utilization Systems, FE–23, Room C–156, Washington, DC 20545, Telephone 301–353–2603.

Mr. Lawrence R. Oliver, Department of Energy, Office of General Counsel, GC–43, Room 6B–190, Washington, DC 20585, Telephone 202–252–2440.

SUPPLEMENTARY INFORMATION: The Coal Loan Guarantee Program (the Program) was designed to encourage and assist relatively small coal producers to increase the Nation's coal production from low-sulfur underground coal mines; to enhance competition within the coal industry; to encourage new market entry by small coal producers who, historically, have been unable to obtain adequate long-term project financing; and to encourage the construction of coal preparation plants designed to reduce the sulfur content of coal.

The Program was authorized by Congress in 1975, by section 102 of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94–163). EPCA gave the Federal Energy Administration—and ultimately DOE [1]—authority to guarantee loans to develop new underground coal mines. This authority was enlarged in 1976 to cover guarantees for underground coal mine expansions and reopenings.[2] The regulations governing the Program were published in the **Federal Register** on November 7, 1978 (43 FR 51956).

Throughout the Program's 6-year existence, only 30 applications have been received, and only one within the past 4 years. Because no applicants have been able to satisfy the law's requirements, no loan guarantees have been granted; and only two applicants have qualified for DOE conditional commitments, which have since expired. Therefore, in light of the lack of public interest in the Program, DOE proposes to suspend activity under the Program.

Review Under Executive Order 12291

Today's proposal was reviewed under Executive Order 12291 (February 17, 1981). DOE has concluded that it is not a "major rule" because suspension of activity under the Coal Loan Guarantee Program will not result in (1) an annual effect on the economy of $100 million or more, (2) a major increase in costs or prices for consumers, individual industries, Federal, State of local government agencies, or geographic regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprised to compete in domestic or export markets.

In accordance with requirements of the Executive Order, this rulemaking has been reviewed by OMB.

Review Under the Regulatory Flexibility Act

This proposed rule was reviewed under the Regulatory Flexibility Act of 1980, Pub. L. 96–354, which requires preparation of a regulatory flexibility analysis for any rule which is likely to have a significant economic impact on a substantial number of small entities. Pursuant to section 605 of the Regulatory Flexibility Act, the Department certifies that this proposal is not a regulation which will have significant economic impact on a substantial number of small entities within the meaning of the Act, and, therefore, does not require preparation of an initial regulatory flexibility analysis. DOE has transmitted that certification to the Small Business Administration. The basis for certification is that, since its implementation in 1978, DOE's activities under the Coal Loan Guarantee Program have not resulted in the opening of any new underground coal mines, or the expansion or reopening of any existing underground coal mines.

Review Under the National Environmental Policy Act

DOE has determined that this proposal does not constitute a major Federal action significantly affecting the quality of the human environment and, therefore, does not require the preparation of an Environmental Impact Statement.

Review Under the Paperwork Reduction Act

This proposal does not impose a collection of information requirement. It therefore, is not necessary to submit this proposal to the Office of Management and Budget for review under the Paperwork Reduction Act.

(44 U.S.C. 3501–3520).

Comment Procedures

Section 501 of the DOE Act provides that if the Secretary determines that a substantial issue of fact or law exists or that a proposed rule is likely to have a substantial impact on the Nation's economy or on large numbers of individuals or businesses, an opportunity for oral presentation of views, data, and arguments shall be provided. For the reasons discussed above, DOE has concluded that this proposal does not involve a substantial issue of fact or law, and that it should not have a substantial impact on the Nation's economy or large numbers of individuals or businesses. Therefore, DOE does not plan to hold a public

[1] The 1977 DOE Act (Pub. L. 95–91) transferred, inter alia, the functions vested by law in the Administrator of the Federal Energy Administration to the Secretary of Energy.

[2] Energy Conservation and Production Act (ECPA) (Pub. L. 94–385), section 164, dated August 14, 1976.

hearing. Interested persons are invited to submit data, views, or arguments with respect to the proposal set forth in this notice. Three copies of written comments should be submitted by June 6, 1986, to the address indicated in the "Address" section above and should be identified on the outside envelope and on the document with the designation "CLGP activity suspension." If any information is considered proprietary or confidential, it should be marked accordingly, and only one copy of that information should be submitted. DOE shall make a determination of any such claim in accordance with 10 CFR 1004.11.

List of Subjects in 10 CFR Part 300

Coal, Loan programs/energy, Mines.

Catalog of Federal Domestic Assistance Number

The Coal Loan Guarantee Program of the Department of Energy is listed as number 81.056 in the Catalog of Federal Domestic Assistance, which is available for inspection at the DOE Public Information Office, Room 1E–190, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, and available for purchase from the Superintendent of Documents, Government Printing Office, Washington, DC 20402.

Authority: Sections 501 and 644 of the DOE Organization Act (Pub. L. 95–91) (42 U.S.C. 7191; 7254), section 102 of the Energy Policy and Conservation Act (Pub. L. 94–163) (42 U.S.C. 6211), as amended by section 164 of the Energy Conservation and Production Act (Pub. L. 94–385), and by section 802 of the Powerplant and Industrial Fuel Use Act (Pub. L. 95–620).

Issued in Washington, DC, May 2, 1986.

Donald L. Bauer,

Acting Assistant Secretary for Fossil Energy.

[FR Doc. 86–10223 Filed 5–6–86; 8:45 am]

BILLING CODE 6450–01–M

FEDERAL RESERVE SYSTEM

12 CFR Part 204

[Regulation D; Docket No. R–0571]

Definition of Deposit

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Request for public comment on proposed rules.

SUMMARY: Pursuant to its authority under section 19 of the Federal Reserve Act, as amended, the Board requests comment on proposed amendments to 12 CFR Part 204 (Regulation D—Reserve Requirements of Depository Institutions). After considering several requests for interpretations of Regulation D regarding the reservability of certain types of transactions, particularly sales of assets by depository institutions where the depository institution retains conditional liability for the assets sold and certain transactions with affiliates, the Board is proposing these amendments in order to clarify when such transactions give rise to deposits for purposes of the regulation.

Under the proposed amendments, the reservability of such transactions generally would depend upon the nature of the liability of the depository institution. Currently, the Board's Regulation D provides that the term "deposit" includes any liability of a depository institution on any promissory note, acknowledgment of advance, bankers' acceptance, or similar obligation (written or oral), including mortgage-backed bonds, that is issued or undertaken as a means of obtaining funds. The regulation currently excludes from this general rule certain of these liabilities, most notably repurchase agreements involving federal government and federal agency securities and certain interbank obligations. The regulation also excludes from the definition of "deposit" an obligation that represents a conditional, contingent or endorser's liability. Under the current regulation, most asset sales in which the depository institution retains some risk of loss are considered deposits, but the regulation is not clear or several technical points. The proposal is intended primarily to clarify the application of reserve requirements to these and related situations.

The proposal would amend the definition of "deposit" specifically to include sales of assets where the depository institution issues or undertakes a liability supporting the assets sold or retains a reversionary interest in these assets, regardless of whether the liability or interest is conditional, unconditional or contingent or whether the liability covers all or a portion of the assets sold. Transactions in which the depository institution's liability on any particular asset is shared with the purchaser as the loss is realized and is less than 75 percent of the loss would not give rise to a deposit. Where the depository institution's share of risk is 75 percent or more of losses realized, the transaction would give rise to a deposit. Generally, transactions in which the depository institution's only liability is to reimburse a third-party guarantor of the assets sold also would not give rise to a deposit under the proposal.

Under the current regulation, obligations of affiliates are reservable when they are used to supply or maintain funds to a depository institution, provided the affiliate's obligation would have been considered a reservable liability if it had been issued by the depository institution itself. The proposal would exclude obligations of affiliates from the definition of deposit if the proceeds of an affiliate's obligation are used to purchase assets from a depository institution without recourse; that is, if the depository institution retains no interest in, or liability for, the assets sold. The proposal would include as a deposit an affiliate's obligation if the depository institution undertakes a liability, conditional or otherwise, to support the affiliate's obligation even if the depository institution does not receive the proceeds of the obligation. In addition, the proposal would amend the definition of "affiliate" to include any organization that a depository institution effectively manages or controls even if it does not meet the formal requisites for ownership or control of the organization. Finally, the proposal seeks to clarify how maturities of deposits should be measured for the purposes of Regulation D.

DATE: Comments on the proposed rule should be submitted no later than July 11, 1986.

ADDRESS: Interested parties are invited to submit written data, views, or comments concerning the proposal to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, DC 20551, or to deliver such comments to the Guard Station in the Eccles Building Courtyard on 20th Street, NW. (between Constitution Avenue and C Street, NW.) between 8:45 a.m. and 5:15 p.m. on business days. Submissions shall refer to Regulation D Docket No. 0571. Comments may be inspected in room B–1122 between 8:45 a.m. and 5:15 p.m. on business days, except as provided in § 261.6(a) of the Board's Rules Regarding Availability of Information (12 CFR 261.6(a)).

FOR FURTHER INFORMATION CONTACT: John Harry Jorgenson, Senior Attorney (202/452–3778), or Patrick J. McDivitt, Attorney (202/452–3818), Legal Division; Frederick H. Jensen, Economist (202/452–3022), Division of Research and Statistics; for Telecommunications Device for the Deaf (TDD) users, Earnestine Hill or Dorothea Thompson (202/452–3544); Board of Governors of

the Federal Reserve System, Washington, DC 20551.

SUPPLEMENTARY INFORMATION: Section 19(b) of the Federal Reserve Act, 12 U.S.C. 461(b), provides the Board with the authority to impose reserve requirements on deposits held by depository institutions, and section 19(a) of that Act, 12 U.S.C. 461(a), gives the Board the authority to define terms used in section 19 and to prevent evasions of section 19. Pursuant to this authority, the Board promulgated its current Regulation D.

Generally, the Board's current Regulation D provides that the term "deposit" includes liabilities of a depository institution that are issued or undertaken as a means of obtaining funds. The regulation excludes from the definition of "deposit" certain obligations that represent a conditional, contingent, or endorser's liability.

Increasingly, depository institutions are selling assets by means of transactions under which the institution guarantees, may be required to repurchase, or retains a reversionary interest in, all or a portion of the assets sold. These transactions take various forms, and the guarantee or interest may be conditional (as in the case of a standby letter of credit) or partial (by limiting liability to some percentage of the assets sold). Under the current Regulation D and the proposal, these transactions give rise to deposits for reserve requirement purposes because they are the functional equivalent of conventional deposits; that is, they raise funds for the depository institution, and the purchaser looks to the depository institution as the source of creditworthiness.

The Board is proposing these amendments to its Regulation D in order to clarify the types of transactions and attendant liabilities that give rise to a deposit under the regulation. The proposal provides that, generally, a transaction that involves a conditional liability or reversionary interest of a depository institution will be considered a deposit if the transaction is undertaken to obtain funds for the depository institution other than fee income. Thus, a sale of assets involving a guarantee by a depository institution in which the depository institution retains the risk of borrower default after the asset is sold gives rise to a deposit. In addition, under the proposal, the term "deposit" would include liabilities issued by affiliates and captive organizations when backed by conditional obligations of a depository institution. These organizations may act as an arm of the depository institution which would otherwise have to fund the lending activities with reservable liabilities.

The proposal also would clarify how maturities of deposits are measured for purposes of Regulation D. These proposed amendments concerning asset sales and other transactions are discussed below.

Clarification of Current Definition of "Deposit"

1. Subject to specified exceptions, Regulation D treats any liability of a depository institution undertaken as a means of obtaining funds, other than fee income, as a deposit. Thus, a sale of assets with recourse generally will be regarded as a deposit. "With recourse" in this context includes undertaking a conditional obligation to repurchase or to guarantee against loss all or a portion of the assets sold. The proposal also would clarify that reversionary or residual interests give rise to a deposit. Thus, when the depository institution sells a pool of assets but retains an interest in the principal or interest on these assets that will revert to the depository institution after a specified period of time or after losses have been deducted from the reverting assets, a deposit would be created. The proposal also would clarify that obligations representing a conditional or endorser's liability, other than fee income, are excluded from the definition of deposit only where they rise in the ordinary course of business, such as from the collection of checks. Other transactions involving similar liabilities on the part of the depository institution may be considered to be deposits.

The Board previously created an exception to the definition of "deposit" for obligations arising from the sales with recourse of pools of one to four-family mortgages provided that the recourse is limited to no more than a ten percent interest in the pool. The Board created this exclusion in order to encourage the growth of the secondary mortgage market so that institutions holding long-term mortgages could more easily sell their relatively illiquid assets. The proposal would not extend this exception to other types of assets.

In the case of a guarantee or other conditional liability provided to support a pool of assets sold, the full value of the assets sold generally would be considered a deposit whether the guarantee or other conditional liability applies to all or only a portion of the loss. For example, in the case of a sale of a pool or automobile loans where the depository institution guarantees or agrees to repurchase up to ten percent of the total value of the pool in the event of default, all proceeds of the sale of the pool would be considered a deposit. However, if a guarantee represents an agreement with the purchaser to share in losses arising from defaults on or claims against the individual assets sold as the losses occur, no deposit would result where the risk borne by the purchaser of the assets is 25 percent or more of any loss on individual assets in the pool of assets sold.

2. Regulation D currently treats an obligation of an affiliate, as defined by Regulation D, as a deposit of the depository institution to the extent that the proceeds are used to supply or to maintain funds (other than capital) to the depository institution, provided the affiliate's obligation would have been a deposit if it had been issued by the depository institution itself. Thus, under the current regulation, an affiliate's obligation issued in connection with the affiliate's purchase of assets from a depository institution is considered a deposit regardless of whether the assets are sold to the affiliate without recourse or are sold with a depository institution's guarantee or other conditional liability.

The Board proposes to change the current treatment of an affiliate's liability to provide that the sale of assets without recourse to an affiliate by the depository institution does not give rise to a deposit. However, if the depository institution provides a guarantee or otherwise assumes a conditional liability in connection with the sale of assets to the affiliate, either to support the assets or to support obligations of the affiliate issued to acquire the assets, the affiliate's obligation would continue to be considered a deposit. If such a guarantee or other conditional liability is issued by a nondepository affiliate of a depository institution to support assets sold without recourse by the depository institution to another affiliate, the Board would continue to view the transaction as not giving rise to a deposit. An obligation of a depository institution's subsidiary (50 percent or more owned by the depository institution) would continue to be regarded as a deposit, regardless of whether the proceeds are passed to the depository institution.

The proposal also provides that an affiliate's obligation is a deposit if that obligation is supported directly by a guarantee or other conditional liability of the depository institution or indirectly by supporting the affiliate's assets, regardless of whether the proceeds of the obligation are channelled to the depository institution. The maturity of such a deposit would be the maturity of

the affiliate's obligation. Under these circumstances, the affiliate's reliance on the credit support of the depository institution enables the affiliate to operate as an arm of the depository institution. For example, affiliates have been established to lend money to customers of the depository institution with the affiliate relying on a letter of credit or other form of credit support from the depository institution to back the affiliate's loans or market obligations. These arrangements, while not directly channeling funds to the depository institution, use the creditworthiness of the depository institution to circumvent the need to fund assest on the books of the depository itself with reservable liabilities.

3. Currently, under staff interpretations, the term "deposit" does not include a sale of assets without recourse where the assets are guaranteed by a third party and the depository institution, in turn, is obligated to reimburse or indemnify the third party for any loss on the assets. Under the proposal, the Board would not consider such an arrangement to give rise to a deposit unless the claims under the guarantee or relating to or arising out of the assets sold could be made against the depository institution as well as, or instead of, the third party guarantor. The Board solicits comment on the benefits of excepting such indirect obligations from definition of deposit and the potential for abuse of such an exception.

4. The Board also proposes to amend the definition of "affiliate" in Regulation D to include any organization that does not meet the definition of "affiliate" in the current Regulation D but that nevertheless functions as an arm of the depository institution. For example, depository institutions have entered into transactions with organizations whose sole function is to issue obligations, such as commercial paper or collaterized securities, in order to finance the acquisition of assets from, or to place long-term nonreservable time deposits in, or to fund loans to customers of, the depository institution. In such a case, the assets or liabilities of the organization are backed by a letter of credit or other obligation of the depository institution. The proposal would include such transactions in the definition of "deposit" by amending the definition of "affiliate" in Regulation D specifically to include these "captive" organizations which are effectively managed by or under the control of the depository institution or that are formed to engage primarily in transactions with the depository institution or its customers even though not formally affiliated under the current definition.

Measuring Maturities on Deposits

If a liability is a deposit under section 204.2(a) of Regulation D, its maturity must be established in order to determine whether it is a transaction account or a time deposit, and if it is a nonpersonal time deposit, whether its maturity is less than one and one-half years. Transaction accounts are subject to a twelve percent reseve requirement and nonpersonal time deposits with maturities of less than one and one-half years have a three percent reserve requirement. Nonpersonal time deposits with a longer maturity have a zero percent reserve requirement. The term "maturity" is not defined in Regulation D, although the issue is addressed, in part, with respect to obligations of affiliates. With respect to the proceeds of a sale of assets and related transactions, the Board proposes to determine the maturity by looking to the remaining maturity of the assets sold unless the maturity is effectively shortened by the nature of the assets or the guarantee. For example, an obligation calling for amortized repayments of principal could be treated as a multiple maturity time deposit with each portion of the principal having its own maturity date established by the required date of repayment.

With regard to underlying guarantees, the Board is considering viewing any provision allowing a "put" by the depositor or a "call" by the depository institution resulting in any principal payment prior to the original maturity as setting that maturity at the earliest time the put or call could be exercised. Provisions in these and other types of deposits may also require the depository institution to disburse funds prior to the original maturity date. The Board prefers to allow the parties to include usual acceleration clauses (such as events of default, prepayments, and events outside the control of the parties) in the obligation without affecting the maturity of the deposit. One difficulty with this approach is deciding what are "usual" acceleration clauses. The Board requests comment on the issue of the appropriate method for determining maturity in asset sales and other transactions including, but not limited to, prepayments (expected and unexpected), guarantees against default (whether full or partial), escrow accounts, sinking funds, accruals, and put and call options.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires the Board to consider the impact of this proposal on small entities. In this regard, it is the Board's view that the proposal would not impose any additional reporting or recordkeeping requirements. The purpose of this proposal is to request comment on any alternatives that the public believes may be preferable to the Board's proposed amendment of its Regulation D set out below. Suggested alternatives will be considered when comments are analyzed. The proposed rule would apply to all depository institutions. It is not anticipated that the proposal will have a negative impact on the ability of small depository institutions to attract deposits.

List of Subjects in 12 CFR Part 204

Banks, Banking, Federal Reserve System, Foreign banking.

Pursuant to its authority under section 19(a) of the Federal Reserve Act (12 U.S.C. 461(a)), the Board proposes to amend Regulation D (12 CFR Part 204) as follows:

1. The authority citation for 12 CFR Part 204 would continue to read:

Authority: Secs. 19, 25, 25(a) of the Federal Reserve Act (12 U.S.C. 461, 601, 611); and sec. 7 of the International Banking Act of 1978 (12 U.S.C. 3105), unless otherwise noted.

2. Section 204.2 would be amended by revising paragraphs (a)(1)(v), (a)(1)(vi), (a)(1)(vii), (a)(2)(ii), and (q)(5) to read:

§ 204.2 Definitions.

For purposes of this part, the following definitions apply unless otherwise specified:

(a)(1) "Deposit" means:

* * * * *

(v) Any liability of a depository institution's affiliate that is not itself a depository institution on any promissory note, acknowledgment of advance, due bill, or similar obligation (written or oral), with a maturity of less than one and one-half years, except any such obligation that, had it been issued directly by the depository institution, would not constitute a deposit. Such a liability includes any affiliate's liability:

(A) The proceeds of which are used to supply or to maintain the availability of funds (other than capital) to the depository institution, except any such obligation issued to purchase assets from the depository institution where the depository institution retains no interest in and is not obligated directly or conditionally on the assets sold; or

(B) The proceeds of which are not used to supply or maintain the

availability of funds to the depository institution but that is supported by an obligation of the depository institution, regardless of whether such obligation is conditional, unconditional, contingent, complete, partial, or supports the affiliate's obligation directly (as with a letter of credit backing the affiliate's liability) or indirectly by supporting the affiliate's assets.

If a liability of an affiliate of a depository institution is regarded as a deposit because the proceeds are used to purchase assets from the depository institution, then the maturity of the deposit shall be the shorter of the maturity of the obligation issued or the remaining maturity of the assets purchased. If a liability of an affiliate is regarded as a deposit because it is supported by an obligation of the depository institution and the proceeds are not used to purchase assets from the depository institution, then the maturity of the deposit shall be maturity of the obligation of the affiliate. If the proceeds from an affiliate's obligation are placed in the depository institution in the form of a reservable deposit, than no reserves are required on the obligation of the affiliate because reserves are required to be maintained against the deposit issued by the depository institution, but the maturity of the deposit shall be the shorter of the maturity of the affiliate's obligation or the maturity of the deposit itself;

(vi) Credit balances;

(vii) Any liability of a depository institution on any promissory note, acknowledgment of advance, bankers' acceptance, or similar obligation (written or oral), including mortgage-backed bonds and borrowings in the form of sales of assets where the depository institution retains an interest in or is liable for the assets sold (whether the interest or liability retained is conditional, unconditional, contingent, complete, or partial), provided that the liability, obligation, or borrowing is issued or undertaken by a depository institution as a means of obtaining funds other than fee income, except any such liability, obligation, or borrowing that:

(A) Is issued or undertaken and held for the account of:

(1) An office located in the United States of another depository institution, foreign bank, Edge or agreement corporation, or New York Investment (Article IXX) Company;

(2) The United States Government or an agency thereof; or

(3) The Export-Import Bank of the United States, Minbanc Capital Corporation, the Government Development Bank for Puerto Rico, a Federal Reserve Bank, a Federal Home Loan Bank, or the National Credit Union Administration Central Liquidity Facility;

(B) Arises from a transfer of direct obligations of, or obligations that are fully guaranteed as to principal and interest by, the United States Government or any agency thereof that the depository institution is obligated to repurchase;

(C) Is not insured by a Federal agency, is subordinated to the claims of depositors, have a weighted average maturity of seven years or more, is considered to be capital by its primary Federal supervisor, and is issued by a depository institution with the approval of, or under the rules and regulations of, its primary Federal supervisor;

(D) Arises from borrowing by a depository institution from a dealer in securities, for one business day, or proceeds of a transfer of deposit credit in a Federal Reserve Bank or other immediately available funds (commonly referred to as "Federal funds"), received by such dealer on the date of the loan in connection with clearance of securities transactions;

(E) Arises from the creation, discount and subsequent sale by a depository institution of its bankers' acceptance of the type described in paragraph 7 of section 13 of the Federal Reserve Act (12 U.S.C. 372);

(F) Arises from a sale of assets that are held by the depository institution for a short period of time as part of the depository institution's ordinary underwriting, trading, or private placement activities;

(G) Arises from a sale of assets where the depository institution is liable only for a specified portion or share in any losses that arise from individual assets sold as the losses are realized, provided the depository institution's liability does not exceed 75 percent of any losses; or

(H) Arises from a sale of assets: (*1*) Where a third party is directly liable on the assets sold; (*2*) the depository institution's only obligation is to indemnify the third party guarantor; and (*3*) the claims under the guarantee relating to or arising out of the assets sold cannot be made against the depository institution by the purchaser of the assets.

* * * * *

(2) "Deposit" does not include:

* * * * *

(ii) An obligation, such as an endorser's liability on an item in process of collection, that represents a conditional, contingent, or endorser's liability arising from a transaction in the ordinary course of business and that is not incurred for the primary purpose of obtaining or maintaining the availability of funds (other than fee income).

* * * * *

(q) "Affiliate" includes any corporation, association, or other organization:

* * * * *

(5) Which the depository institution effectively manages or controls, directly or indirectly, or which is formed for the purpose of engaging primarily in transactions with the depository institution or its customers even if such organization is not formally owned or controlled by the depository institution.

* * * * *

By order of the Board of Governors of the Federal Reserve System,

William W. Wiles,

Secretary of the Board.

[FR Doc. 86-10036 Filed 5-6-86; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 86-AWA-10]

Proposed Subdivision of R-6412, Camp Williams, UT

Correction

In FR Doc. 86-9011, beginning on page 15349, in the issue of Wednesday, April 23, 1986, make the following correction:

On page 15350, third column, in the "Authority", second line, "49 U.S.C. 1069(g)" should read "49 U.S.C. 106(g)".

BILLING CODE 1505-01-M

INTERNATIONAL TRADE COMMISSION

19 CFR Part 211

Advance Notice of Intent To Revise Enforcement Procedures Applicable to Investigations of Unfair Practices in Import Trade

AGENCY: U.S. International Trade Commission.

ACTION: Advance notice of proposed rulemaking and request for comments.

SUMMARY: The U.S. International Trade Commission is considering revision of its rules concerning enforcement procedures applicable to investigations of unfair practices in import trade conducted pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337). These rules are contained in 19 CFR Part 211.

The Commission requests comments regarding in what respects, if at all, the Part 211 rules should be amended.

DATE: Comments must be received no later than July 7, 1986.

ADDRESS: Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, DC 20436.

FOR FURTHER INFORMATION CONTACT: Tim Yaworski, Esq., or Wayne Herrington, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street, NW., Washington, DC 20436, telephone 202–523–0311 and 202–523–3395, respectively.

SUPPLEMENTARY INFORMATION: The Commission's Part 211 rules concern procedures for the settlement by consent of matters which involve alleged violations of section 337 and for the enforcement, modification, and revocation of final Commission actions. The rules were promulgated in final form on March 18, 1981 (46 FR 17531) and have been amended subsequently only in minor aspects.

Issued: April 30, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–10234 Filed 5–6–86; 8:45 am]

BILLING CODE 7020-02-M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Parts 731, 732, 761, 772, 773, 779, 780, 783, and 784

Protecting Historic Properties From Surface Coal Mining Operations

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

ACTION: Notice of Public Hearing.

SUMMARY: On March 11, 1986, the Office of Surface Mining Reclamation and Enforcement (OSMRE) of the U.S. Department of the Interior (DOI) proposed to amend its rules with respect to the consideration of cultural and historic properties to clarify existing provisions in its regulatory program (51 FR 8466 March 11, 1986). Provisions addressing the definition of cemetery, collection of information on known historic properties by applicants for permits to conduct coal mining operations, consideration of historic properties by State regulatory authorities, collection of environmental information by applicants for permits to conduct coal mining operations, and preparation of reclamation plans by applicants for plans by applicants for permits to conduct coal mining operations were proposed.

In response to a request from interested citizens a public hearing on the proposed Historic properties rules revisions is hereby scheduled at the location and time given below.

DATE: June 3, 1986, 9:00 a.m. to 1200 p.m.

ADDRESS: Office of Surface Mining reclamation and Enforcement, Columbus Field Office, 2242 South Hamilton, Room 200, Columbus, Ohio 43232.

FOR FURTHER INFORMATION CONTACT: Dr. Annetta I. Cheek, Office of Surface Mining Reclamation and Enforcement, U.S. Department of the Interior, 1951 Constitution Ave., NW., Washington, DC 20240; telephone: 202–343–7951.

SUPPLEMENTARY INFORMATION:

I. Public Hearing
II. Background

I. Public Hearing

The public hearing will continue until all persons wishing to testify have been heard. To assist the transcriber and ensure an accurate record, OSM requests that persons who testify at the hearing give the transcriber a written copy of their testimony. OSMRE also requests that persons who plan to testify submit to OSMRE an advance copy of their testimony at the following address: Office of Surface Mining, Administrative Record, Room 5124B–L, 1951 Constitution Avenue, NW., Washington, DC 20240.

II. Background

Consideration of historic properties is required by the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 *et seq.* (the Act), as well as by other Federal statutes. Historic properties are addressed in sections 507(b)(13), 522(a)(3)(B) and 522(e)(3) of the Act. Additional requirements applicable to OSMRE's programs are found in sections 106 and 110 of the National Historic Preservation Act of 1966, as amended, 16 U.S.C. 470 *et seq.*

Section 507(b)(13) of the Act requires applicants for permits to conduct coal mining operations to include in their applications accurate maps showing all manmade features and significant known archeological sites existing on the date of application.

Section 522(a)(3)(B) of the Act authorizes regulatory authorities to determine that a surface area is unsuitable for all or certain types of coal mining if it would affect fragile or historic lands on which such operations could result in significant damage to important historic, cultural, scientific, and esthetic values and natural systems.

Section 522(e) of the Act lists several property types on which mining is prohibited. Specifically, this section states that no surface coal mining operations will be permitted "within one hundred feet of a cemetery" or "which will adversely affect any publicly owned park or places included in the National Register of Historic Sites (sic) unless approved jointly by the regulatory authority and the Federal, State, or local agency with jurisdiction over the park or the historic site." Exceptions exist for valid existing rights and operations existing on August 3, 1977.

Section 106 of the National Historic Preservation Act, as amended, required Federal agency heads, prior to authorizing expenditure of Federal funds on a Federal or federally assisted undertaking, or prior to issuing a Federal license for such an undertaking, to consider the effect of the undertaking on historic resources and to provide the Advisory Council on Historic Preservation with a reasonable opportunity to comment on the undertaking. Under the NHPA, OSMRE reviews State program provisions as well as its own operations to ensure that appropriate consideration is being given to important historic properties.

The revisions to the existing regulations proposed respond to three basic concerns. First, opinions issued by the District Court of the District of Columbia require certain changes to the existing language. Second, the petition for rulemaking on this issue, submitted by SOPA, was determined to have merit and OSMRE has decided to propose regulations to respond to the issues raised in that petition. See the discussion of the Director's decision on this petition at 51 FR 3802, January 30, 1966, which is part of the basis and purpose for this rule. Third, OSMRE's experience with the process as it now operates, and comments from various interest groups, both suggest that greater clarity and specificity in the regulations is required so that the regulatory authorities can better assist the Secretary of the Interior in implementing his responsibilities concerning historic resources.

A detailed discussion of these issues is set forth in the preamble to the proposed rule (51 FR 8466 March 11, 1986).

Dated: May 2, 1986.

H. Leonard Richeson,

Acting Assistant Director, Program Operations.

[FR Doc. 86–10170 Filed 5–6–86; 8:45 am]

BILLING CODE 4310-05-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW-FRL-3012-8]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Proposed Exclusions

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule and request for comment.

SUMMARY: The Environmental Protection Agency (EPA) today is proposing to exclude the solid wastes generated at seven facilities from the list of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to delisting petitions submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 265, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific basis" from the hazardous waste list. The effect of this action, if promulgated, would be to exclude certain wastes generated at particular facilities from listing as hazardous wastes under 40 CFR Part 261.

The Agency has previously evaluated five of the petitions which are discussed in today's notice. Based on our review at that time, five of these petitioners were granted a temporary exclusion. Due to changes to the delisting criteria required by the Hazardous and Solid Waste Amendments of 1984, however, these petitions as well as the other two petitions for which we propose to grant an exclusion have been evaluated both for the factors for which the wastes were originally listed, as well as all other factors and toxicants which might reasonably cause the wastes to be hazardous.

DATES: EPA will accept public comments on these proposed exclusions until June 6, 1986. Any person may request a hearing on these proposed exclusions by filing a request with Eileen B. Claussen, whose address appears below, by May 22, 1986. The request must contain the information prescribed in 40 CFR 260.20(d).

ADDRESSES: Send two copies of your comments to EPA. One copy should be sent to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. A second copy should be sent to Jim Kent, Delisting Section, Waste Identification Branch, CAD/OSW (WH-562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Identify your comments at the top with this statement: "Section 3001—Delisting Petition; Proposed Exclusions Beginning with Arco Building Products; May 7, 1986."

Requests for a hearing should be addressed to Eileen B. Claussen, Director, Characterization and Assessment Division, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

The public docket for these proposed exclusions is located in Room S-212, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-5096.

SUPPLEMENTARY INFORMATION:

Background

On January 16, 1981, as part of its final and interim final regulations implementing section 3001 of RCRA, EPA published an amended list of hazardous wastes from non-specific and specific sources. This list has been amended several times, and is published in 40 CFR 261.31 and 261.32. These wastes are listed as hazardous because they typically and frequently exhibit any of the characteristics of hazardous wastes identified in Subpart C of Part 261 (*i.e.*, ignitability, corrosivity, reactivity, and extraction procedure [EP] toxicity) or meet the criteria for listing contained in 40 CFR 261.11 (a)(2) or (a)(3).

Individual waste streams may vary, however, depending on raw materials, industrial processes, and other factors. Thus, while a waste that is described in these regulations generally is hazardous, a specific waste from an individual facility meeting the listing description may not be. For this reason, 40 CFR 260.20 and 260.22 provide an exclusion procedure, allowing persons to demonstrate that a specific waste from a particular generating facility should not be regulated as a hazardous waste.

To be excluded, petitioners must show that a waste generated at their facility does not meet any of the criteria under which the waste was listed. (See 40 CFR 260.22(a) and the background documents for the listed wastes.) In addition, the Hazardous and Solid Waste Amendments of 1984 (HSWA) require the Agency to consider factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Accordingly, a petitioner also must demonstrate that the waste does not exhibit any of the hazardous waste characteristics, as well as present sufficient information for the Agency to determine whether the waste contains any other taxicants at hazardous levels. (See 40 CFR 260.22(a); section 222 of the Hazardous and Solid Waste Amendments of 1984, 42 U.S.C. 6921(f); and the background documents for the listed wastes.) Although wastes which are "delisted" (*i.e.*, excluded) habe been evaluated to determine whether or not they exhibit any of the characteristics of a hazardous waste, generators remain obligated to determine whether their waste remains non-hazardous based on the hazardous waste characteristics.

In addition to wastes listed as hazardous in 40 CFR 261.31 and 261.32, residues from the treatment, storage, or disposal of listed hazardous wastes also are eligible for exclusion and remain hazardous wastes until excluded. (See 40 CFR 261.3 (c) and (d)(2).) Again, the substantive standard for "delisting" is: (1) That the waste not meet any of the criteria for which it was listed originally; and (2) that the waste is not hazardous after considering factors (including additional constituents) other than those for which the waste was listed, if there is a reasonable basis to believe that such additional factors could cause the waste to be hazardous. Where the waste is derived from one or more listed hazarous waste, the demonstration may be made with respect to each constituent or the waste mixture as a whole. (See 40 CFR 260.22(b).) Generators of these excluded treatment, storage, or disposal residues remain obligated to determine whether these residues exhibit any of the hazardous waste characteristics on a periodic basis.

Approach Used To Evaluate Delisting Petitions

The Agency first will evaluate the petition to determine whether the waste (for which the petition was submitted) is non-hazardous based on the criteria for which the waste was originally listed. If the Agency believes that the waste is still hazardous (based on the original listing criteria), it will propose to deny the petition. If, however, the Agency agrees with the petitioner that the waste is non-hazardous with respect to the criteria for which the waste was listed, it then will evaluate the waste with respect to other factors or criteria, if there is a resonable basis to believe that such additional factors could cause the waste to be hazardous.

The Agency is using a hierarchical approach in evaluating petitions for the other factors or contaminants (*i.e.*, those listed in Appendix VIII of Part 261). This approach may, in some cases, eliminate the need for additional testing. The petitioner can choose to submit a raw materials list and process descriptions. The Agency will evaluate this information to determine whether any Appendix VIII hazardous constitutents are used or formed in the manufacturing and treatment process and are likely to be present in the waste at significant levels. If so, the Agency then will request that the petitioner perform additional analytical testing. If the petitioner disagrees, he may present arguments on why the toxicants would not be present in the waste, or, if present, why they would pose no toxicological hazard. The reasoning may include descriptions of closed or segregated systems, or mass balance arguments relating volume of raw materials used to the rate of waste generation. If the Agency finds that the arguments presented by the petitioner are not sufficient to eliminate the reasonable likelihood of the toxicant's presence in the waste, the petition would be tentatively denied on the basis of insufficient information. The petitioner then may choose to submit the additional analytical data on representative samples of the waste during the public comment period.

Rather than submitting a raw materials list, petitioners may test their waste for any additional toxic constituents that may be present and submit this data to the Agency. In this case, the petitioner should submit an explanation of why any constituents from Appendix VIII of Part 261, for which no testing was done, would not be present in the waste or, if present, why they would not pose a toxicological hazard.

In making a delisting determination, the Agency evaluates each petitioned waste against the listing criteria and factors cited in 40 CFR 261.11 (a)(2) and (a)(3). Specifically, the Agency considers whether the waste is acutely toxic, as well as the toxicity of the constitutents, the concentrations of the constitutents in the waste, their tendency to migrate and bioaccumulate, their persistence in the environment once released from the waste, plausible types of management of the waste, and the quantities of waste generated. In this regard, the Agency has developed an analytical approach to the evaluation of wastes that are landfilled and land treated. See 50 FR 7882 (February 26, 1985), 50 FR 48886 (November 27, 1985), and 50 FR 48943 (November 27, 1985). The overall approach, which includes a ground water transport model, is used to predict reasonable worst-case contaminant levels in ground water in nearby receptor wells (*i.e.*, the model estimates the ability of an aquifer to dilute the toxicant from a specific volume of waste). The land treatment model also has an air component and predicts the concentration of specific toxicants at some distance downwind of the facility. The compliance point concentration determined by the model then is compared directly to a level of regulatory concern. If the value at the compliance point predicted by the model is less than the level of regulatory concern, then the waste could be considered non-hazardous and a candidate for delisting. If the value at the compliance point is above this level, however, than the waste probably still will be considered hazardous, and not excluded from Subtitle C control.[1]

This approach evaluates the petitioned wastes by assuming reasonable worst-case land disposal scenarios. This approach has resulted in the development of a sliding regualtory scale which suggestes that a large volume of waste exhibiting a particular extract level would be considered hazardous, while a smaller volume of the same waste could be considered non-hazardous.[2] The Agency believes this to be a reasonable outcome since a larger quantity of the waste (and the toxicants in the waste) might not be diluted sufficiently to result in compliance point concentrations that are less than the level of regulatory concern. The selected approach predicts that the larger the waste volume, the higher the level of toxicants at the compliance point. The mathematical relationship (with respect to ground water) yields at least six-fold dilution of the toxicant concentration initially entering the aquifer (*i.e.*, any waste exhibiting extract levels equal to or less than six times a level of regulatory concern will generate a toxicant concentration at the compliance point equal to or less than the level of regulatory concern). Depending on the volume of waste, an additional five-fold dilution may be imparted, resulting in a total dilution of up to thirity-two times..

The Agency is using this approach as one factor in determining the potential impact of the unregulated disposal of petitioned waste on human health and the environment. The Agency has used this approach in evaluting each of the waste proposed for exclusion in today's publication. As a result of this evaluation, the Agency is proposing to grant the petitions discussed in this notice.

It should be noted EPA has not verified the submitted test data before proposing to grant these exclusions. The sworn affidavits submitted with each petition bind the petitioners to present truthful and accurate results. The Agency, however, has initiated a spot sampling and analysis program to verify the representative nature of the data for some percentage of the submitted petitions before final exclusions will be granted.

Finally, before the Hazardous and Solid Waste Amedments of 1984, the Agency granted temporary exclusion without first requesting public comment. The Admendments specifically require the Agency to provide notice and an opportunity for comment before granting a final exclusion. Thus, a final exclusion will not be granted for any of the petitions proposed today until all public comments (including those at requested hearings, if any) are addressed.

Petitioners

The proposed exclusions published today involve the following petitioners:

Arco Building Products, Sugarcreek, Ohio;

Hanover Wire Cloth Division, Hanover, Pennsylvania;

International MInerals and Chemical Corporation, Terre Haute, Indiana;

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[1] The Agency recently proposed a similar approach, including a ground water transport model, as part of the land disposal restrictions rule (see 51 *FR* 1602, January 14, 1986). The Agency, however, has not yet evaluated the comments on this proposal. If this approach is promulgated, the Agency will consider revising the delisting analysis at the time.

[2] Other factors may result in the denial of a petition, such as actual ground water monitoring data or spot check verification data.

Monsanto Industrial Chemicals Company, Sauget, Illinois;
Square D Company, Oxford, Ohio;
Vulcan Materials Company, Port Edwards, Wisconsin;
Whirlpool Corporation, Danville, Kentucky.

I. Arco Building Products

A. Petition for Exclusion

Arco Building Products (Arco), located in Sugarcreek, Ohio, fabricates a variety of aluminum extrusions into prime replacement windows, storm doors, and storm windows for distribution to residential home builders and other contractors. Arco has petitioned the Agency to exclude its wastewater treatment sludge, presently listed as EPA Hazardous Waste No. F019—Wastewater treatment sludge from the chemical conversion coating of aluminum. The listed constituents of concern for EPA Hazardous Waste No. F019 are hexavalent chromium and complexed cyanide.

Based upon the Agency's review of their petition, Arco was granted a temporary exclusion on January 13, 1983.[3] The Agency's basis for granting the informal exclusion was the low migration potential of the constituents of concern; namely hexavalent chromium and complexed cyanide. On November 8, 1984, the Hazardous and Solid Waste Amendments were enacted. In part, the Amendments require the Agency to consider factors (including additional constituents) other than those for which the waste was originally listed, if the Agency has a reasonable basis to believe that such additional factors could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. 6921(f).) As a result, the Agency has re-evaluated Arco's petition to: (1) Determine if the petition should be granted based on the original listing criteria; and (2) evaluate the waste for additional factors (other than those for which the waste was listed) to determine whether or not the waste is hazardous. Today's notice is the Agency's re-evaluation of this petition.

In support of their petition, Arco submitted a detailed description of its manufacturing and treatment processes, including schematic diagrams; total constituent analyses and EP toxicity test results of the sludge for chromium; and analytical test results for total, amenable, and leachable cyanide.[4] Arco also submitted total constituent analyses and EP toxicity test results for arsenic, barium, cadmium, lead, mercury, nickel, selenium, and silver; and total oil and grease analyses on representative waste samples. Arco further submitted a list of raw materials used in the manufacturing process to demonstrate that no other hazardous constituents are present in the waste at levels of regulatory concern. As noted above, the Agency requested this information to determine if toxicants, other than those for which the waste was listed, are present in the waste at levels of regulatory concern.

Arco's manufacturing process includes washing and conversion coating of aluminum extrusions in preparation for painting with turbine disks, oven curing and cutting, and fabricating the extrusions into window and door products. Arco claims that cyanide is not used in their process. Treatment of the wastewater from the chemical conversion coating process involves ferric sulfate addition to aid phosphate removal. Sodium bisulfite is added to the treatment tank to reduce hexavalent chromium to the trivalent state. The reduced solution is neutralized with calcium hydroxide lime. A flocculant is then added to the suspended solids to precipitate chromic hydroxide. The supernatant is pumped to the Sugarcreek publicly owned treatment works, and the sludge is passed through a filter press to achieve a 30 percent solids content.

Four weekly composite samples were collected from the sludge storage drums. Each composite sample was composed of five sample cores from each drum. The samples were collected over a 1-month period (November, 1985) to reflect process changes. ARCO claims that the samples collected are representative of any variation of the listed and unlisted constituent concentrations in the waste. ARCO further claims that although the facility could be considered a job shop, the manufacturing processes used at the facility are predictable and the use of raw materials only increases during September, October, and November. In addition, the petitioner claims that the sampling period was long enough to cover any scheduled changes in the product line and, therefore, all raw materials used in the process are represented by the samples collected.

Total constituent and EP toxicity analyses of the sludge for the listed constituents revealed the maximum concentrations reported in Table 1.

TABLE 1.—MAXIMUM CONCENTRATIONS (ppm)

Constituent	Total constituent analysis	EP leachate analysis
Cr (total)	31,000	[1] 0.13
CN	<0.5	[2] 0.03

[1] Hexavalent chromium is listed as the constituent of concern for this waste; however, the concentration of total chromium in the EP extract is low enough to make a determination of hexavalent chromium unnecessary.
[2] From distilled water leach test.

The total constituent and EP toxicity analyses of the sludge for the non-listed EP toxic metals and nickel revealed the maximum concentrations reported in Table 2.

TABLE 2.—MAXIMUM CONCENTRATIONS (ppm)

Constituent	Total constituent analysis	EP leachate analysis
As	5.8	<0.01
Ba	34	0.1
Cd	3.1	0.01
Pb	50	0.13
Hg	0.27	0.0006
Ni	120	0.45
Se	<1	<0.01
Ag	<0.1	<0.01

The maximum total oil and grease value reported was 0.41 percent. Arco also submitted a list of all raw materials used in their manufacturing and wastewater treatment processes. This list indicates that no Appendix VIII hazardous constituents (other than those tested for) are used in the process and that formation of any of these constituents is highly unlikely. Arco also provided test data indicating that the sludge is not ignitable, corrosive, or reactive. Arco claims to generate a maximum of 30 tons of sludge per year.

B. Agency Analysis and Action

Arco has demonstrated that its waste treatment system produces a non-hazardous sludge. The Agency believes that the four composite samples collected from the drums over a one-month period were non-biased and adequately represent any variations that may occur in the waste stream petitioned for exclusion. The key factor that could vary toxicant concentrations in the waste would be the use of different raw materials due to changes in the product line being manufactured. The Agency believes that Arco's sampling period was long enough to cover any scheduled changes in the product line since the petitioner has verified that all of the process lines were in operation during the sampling period.

[3] This exclusion was not published in the **Federal Register**. Since the Assistant Administrator for Solid Waste and Emergency Response approved the decision however, we have concluded that Arco was granted a temporary exclusion. See public docket for specific documentation.

[4] Leachable cyanide was determined using a distilled water extractant. Distilled water is used rather than the normal acidic EP extraction medium to avoid the destruction of cyanide during the extraction procedure.

We believe, therefore, that the samples are representative of the waste Arco generated.

The Agency has evaluated the mobility of the listed constituents from Arco's waste using a vertical and horizontal spread (VHS) model.[5] The compliance point values were calculated using a minimum waste generation rate of 475 cubic yards per year as specified by the VHS model [6] and the maximum reported extract levels as input parameters. These compliance point concentrations are exhibited in Table 3.

TABLE 3.—VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATIONS (ppm)

Constituent	Compliance-point concentration	Regulatory standard
Cr (total	0.004	0.05
CN	0.0009	0.2

The sludge exhibited chromium levels (at the compliance point) below the National Interim Primary Drinking Water standard and cyanide levels below the U.S. Public Health Service's suggested drinking water standard.[7] The total cyanide levels in the waste are also below the air threshold limit set by the American Conference of Governmental Hygienists.[8] These constituents therefore are not of regulatory concern.

The Agency also concluded, through the use of the VHS model, that no other toxic metals are present in the sludge at levels of regulatory concern (*i.e.*, none are above any regulatory standard at the compliance point in the VHS model). The compliance point values generated from these extract levels are displayed in Table 4. (Where concentrations were below detection limits, the detection limit was used in the VHS calculations.)

TABLE 4.—VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATION (ppm)

Constituent	Compliance-point concentration	Regulatory standards
As	<0.0003	0.05
Ba	0.003	1.0
Cd	0.0003	0.01
Pb	0.004	0.05
Hg	0.00002	0.002
Ni	0.014	0.35
Se	<0.0003	0.01
Ag	<0.0003	0.05

The Agency also reviewed Arco's raw materials lists and Material Safety Data Sheets for each component in the raw materials lists. The Agency has concluded from this review that no other Appendix VIII hazardous constituents are present in the waste.

The Agency believes that ARCO's treatment process generates a non-hazardous waste. The Agency therefore proposes to grant an exclusion to Arco's Sugarcreek, Ohio facility for its dewatered wastewater treatment sludge, as described in its petition. (The Agency notes that any changes to Arco's manufacturing or treatment processes will require Arco to file an addendum to their petition or a new petition.[9] Any future changes to these processes that could affect the physical or chemical characteristics of the sludge will require a redemonstration of the hazard of the waste).

II. Hanover Wire Cloth.

Petition for Exclusion

A.

Hanover Wire Cloth (Hanover), located in Hanover, Pennsylvania, manufactures wire cloth or screen material. Hanover has petitioned the Agency to exclude its treated sludge, presently listed as EPA Hazardous Waste No. F006—Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum.[10] The listed constituents of concern for EPA Hazardous Waste No. F006 are cadmium, hexavalent chromium, nickel, and cyanide (complexed).

Based upon the Agency's review of their petition, Hanover was granted temporary exclusion on January 13, 1983.[11] The Agency basis for granting the informal exclusion was the low migration potential of the constituents of concern, namely hexavalent chromium, cadmium, nickel, and cyanide. On November 8, 1984, the Hazardous and Solid Waste Amendments were enacted. In part, the Amendments require the Agency to consider factors (including additional constituents) other than those for which the waste was originally listed, if the Agency has a reasonable basis to believe that such additional factors could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. 6921(f).). As a result, the Agency has re-evaluated Hanover's petition to: (1) Determine if the petition should be granted based on the original listing criteria; and (2) evaluate the waste for additional factors (other than those for which the waste was listed) to determine whether or not the waste is hazardous. Today's notice is our re-evaluation of this petition.

In support of their petition, Hanover submitted a detailed description of their manufacturing and wastewater treatment processes, including schematic diagrams; total constituent and EP toxicity analyses of the waste for chromium, cadmium, and nickle; and total analyses for cyanide. Hanover also submitted total constitutent and EP toxicity analyses for arsenic, barium, lead, mercury, selenium, and silver; and total oil and grease analyses on representative waste samples. Hanover further submitted a list of raw materials used in their processes that contribute to the petitioned waste. The Agency requested this information, as noted above, to determine whether hazardous constituents, other than those for which the waste is listed, are present in the waste at levels of regulatory concern.

Hanover's manufacturing processes are divided into three categories; wire drawing, weaving, and screen finishing. The wire drawing operation involves annealing coils of steel, dipping in sulfuric acid, and copper coating with a copper sulfate solution. The wire

[5] See 50 *FR* 7882, Appendix I, February 26, 1985, for a detailed explanation of the development of the VHS model for use in the delisting program. See also the final version of the VHS model, 50 *FR* 48896, Appendix, November 27, 1985.

[6] Arco generates 30 tons of sludge per year of waste; however, the VHS model uses a minimum waste generation rate of 475 cubic yards. The Agency assumes the density of the waste to be 1 ton/cu. yd. unless otherwise specified. See 50 *FR* 48900 (November 27, 1985) for a discussion of the minimum waste generation rate.

[7] Drinking Water Standards, U.S. Public Health Service, Publication 956, 1962 (0.2 ppm).

[8] See Documentation of Threshold Limit Values for Substances in Workroom Air. American Conference of Governmental Industrial Hygienists, third edition, 1971, Cincinnati, Ohio.

[9] Once a final decision on this petition is made, a significant process change would require submission of a new petition or treatment of the waste as hazardous.

[10] The original petition submitted by Hanover also requested that the Agency exclude EPA Hazardous Waste No. F019—Wastewater treatment sludges from the chemical conversion coating of aluminum. Since that time, the source for the F019 Waste has been eliminated. Hanover is therefore requesting a final exclusion only for the F006 waste.

[11] This exclusion was not published in the **Federal Register.** Since the Assistant Administrator for Solid Waste and Emergency Response approved the decision, however, we have concluded that Hanover was granted a temporary exclusion. See public docket for specific documentation.

produced is woven into screen material (cloth). Steel Cloth is then cleaned and painted or Zinc plated; bronze and aluminum cloth are also cleaned and painted. Wastewaters from the drawing and finishing operations are sent to the wastewater treatment system. There are no wastewaters generated from the painting process (after the paint is applied, it is cured and the cloth is packaged for sale; water does not contact the product after coating).

Wastewater from the wire drawing and finishing operations are sent to a flash mix tank where excess lime and a coagulant are added to control pH and enhance sedimentation. The waste then flows to a flocculant tank and into a clarifier. The sludge is collected in the clarifier hopper and pumped to a disc vacuum filter. Filter cake accumulates in a drum, and once the drum is filled, the waste is dumped into a container. The filter cake accumulates in the container for approximately one month before disposal.

Hanover collected, in total, 12 samples that were generated from the vacuum filter.[12] Four grab samples were collected in January, April, June, and July 1985, and were used for the metals analyses, while four grab samples were collected in October, 1985, and analyzed for total oil and grease, pH, and percent solids. Four additional samples were collected, over a 15 day period in December, 1985, and also analyzed for the toxic metals. Hanover states that the manufacturing processes used at the facility are operated in a consistent manner, and that the use of raw materials does not vary over time. Hanover claims, therefore, that the samples collected are representative of any variation of the listed and non-listed constitutent concentrations of the waste.

Total constituent analyses and EP toxicity test results of the treatment sludge for the listed constituents, as well as the other EP toxic metals, revealed the maximum concentrations reported in Tables 1 and 2.

TABLE 1.—MAXIMUM CONCENTRATIONS

	Total constituent analyses (mg/kg)	EP leachate results (mg/l)
Cd	0.5	0.05
Cr (total)	47	[1]0.12
Ni	31.2	0.53
CN (total)	0.29	

[12] In Hanover's original petition, four composite samples were analyzed for chromium content, and one composite sample was analyzed for the remainder of the metals. This information, however, included the F019 wastestream and is, therefore, not considered in this evaluation.

[1] Hexavalent chromium is listed as the constituent of concern for this waste; however, the concentration of total chromium is low enough to make a determination of hexavalent chromium unnecessary.

TABLE 2.—MAXIMUM CONCENTRATIONS [1]

	Total constituent analyses (mg/kg)	EP leachate results (mg/l) [1]
As	0.25	<0.02
Ba	6	0.4
Pb	5.8	0.18
Hg	0.6	0.0023
Se	<0.02	0.11
Ag	1.1	0.03

[1] The EP leachate values and maximum constituent analyses reported in Table 2 represent the maximum levels reported for particular metal and do not necessarily represent the same sample.

The maximum total oil and grease content of Hanover's waste was 0.05 percent. This list of raw materials Hanover provided indicates that no Appendix VIII hazardous constituents, other than those tested for, are used in the process, nor are any other toxicants expected to enter or be formed in the sludge. Further, Hanover claims that the maximum amount of waste generated in 255 tons annually.

B. Agency Analysis and Action

Hanover has demonstrated that its wastewater treatment system generates a non-hazardous sluge. The Agency believes that the samples collected by Hanover were non-biased and adequately reflect and variations that may occur in the waste stream petitioned for exclusion. The key factor that could vary toxicant concentrations in the waste would be the use of different raw materials due to a change in the product line being manufactured. Hanover is not a job shop nor are there seasonal product variations. The Agency believes Hanover's claim that manufacturing and treatment processes are uniform and consistent. The Agency, therefore, believes that the samples collected are representative of the waste generated by Hanover.

The Agency has evaluated the mobility of the listed constituents from Hanover's waste using a vertical and horizontal spread (VHS) model.[13] The Agency's evaluation of Hanover's waste, using the maximum values for estimated annual sluge generation [14] and reported leachate concentrations as input parameters, has resulted in the maximum predicted compliance point concentrations exhibited in Table 3.

[13] See footnote 5.

[14] Hanover generates 255 tons of sludge per year of waste; however, the VHS model specifies a minimum waste generation rate of 475 cubic yards. The Agency assumes the density of the waste to be 1 ton/cu. yd. unless otherwise specified. See 50 *FR* 48900 (November 27, 1985) for a discussion of the minimum waste generation rate.

TABLE 3.—COMPLIANCE POINT CONCENTRATIONS (mg/l)

	Predicted Compliance point concentration	Regulation standard
Cd	0.002	0.01
Cr (total)	0.004	0.05
Ni	0.016	0.35
CN [1]	0.009	0.2

[1] The maximum total concentration of cyanide found in the waste was used in the VHS calculation because even if all of the cyanide were to leach out of the waste, the resultant level at the compliance point would still be below the regulatory standard.

The vacuum filter sludge exhibited cadmium and chromium levels (at the compliance point) below the National Interim Primary Drinking Water standards, and cyanide levels below the U.S. Public Health Service's suggested drinking water standard.[15] The predicted maximum nickel value is also below the Agency's interim standard.[16] These constituents are, therefore, not of regulatory concern.

The Agency also has concluded that no other inorganic hazardous constituents are present in the filter cake at levels of regulatory concern (*i.e.*, none are above any regulatory standard at the compliance point in the VHS model, see Table 4; where concentrations were below the detection limit, the detection limit was used in the VHS calculations). In addition, we also find that no hazardous organic constituents are present in the waste based on our review of the list of raw materials used by Hanover in the processes that contribute to the petitioned waste.

TABLE 4.—COMPLIANCE POINT CONCENTRATIONS (mg/l)

	Compliance point concentration	Regulatory standard
As	<0.001	0.05
Ba	0.012	1
Pb	0.006	0.05
Hg	<0.001	0.002
Se	<0.001	0.01
Ag	<0.001	0.05

The Agency believes that, based upon the constituents and factors evaluated, Hanover's waste is non-hazardous and should be excluded from hazardous waste control. The Agency, therefore, proposes to grant an exclusion to Hanover Wire Cloth, located in

[15] See footnote 7.

[16] In previous notices, the Agency has used 632 ppb as the regulatory standard for nickel. Pending the completion of current EPA studies on the health effects of nickel, the Agency is using 350 ppb for the purpose of evaluating delisting petitions. The basis for this standard and its intended use are explained at 50 FR 20239–20248, May 15, 1985.

Hanover, Pennsylvania, for its dewatered electroplating wastewater treatment sludge, as described in its petition. (The Agency notes that any changes to the manufacturing or treatment processes will require Hanover to file an addendum to their petition or a new petition.[17] Any future changes that could effect the physical and chemical characteristics of the filter cake will require a redemonstration of the hazard of the waste.)

III. International Minerals and Chemical Corporation

A. Petition for Exclusion

International Minerals and Chemical Corporation (IMC), located in Terre Haute, Indiana, is involved in the manufacture of pharmaceutical bacitracin. IMC has petitioned the Agency to exclude its still botton waste, listed as EPA Hazardous Waste No. F003—The following spent non-halogenated solvent: n-butyl alcohol (n-butanol) and the still bottoms from the recovery of this solvent. IMC has petitioned to exclude its waste because it does not meet the criteria for which it was listed.

Based upon our review of their petition, IMC was granted a temporary exclusion on August 6, 1981 (see 46 *FR* 40155). The Agency's basis for granting the exclusion was the low percentage of n-butanol (<1.0%) present in the distillation still bottoms; this is well below the limit (24 percent alcohol by volume) set in § 261.21(a)(1) of the RCRA regulations for ignitable wastes which contain alcohol. In addition, flash point tests run on IMC's distillation still bottoms indicated that the flash point for the waste was greater than 210°F. (*i.e.*, was not ignitable pursuant to 40 CFR 261.21(a)(1)).

Since that time, the Hazardous and Solid Waste Amendments (HSWA) of 1984 were enacted. In part, the Amendments require the Agency to consider factors (including additional constituents) other than those for which the waste was listed, if the Agency has a reasonable basis to believe that such additional factors could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. 6921(f).) In anticipation of either the enactment of this legislation or regulatory changes by the Agency, EPA requested additional information from IMC. (This additional information was submitted by IMC on June 7, 1985 and January 13, 1986.) As a result, the Agency has reevaluated IMC's petition to determine whether the temporary exclusion should be made final. This evaluation was based on the original listing criteria as well as other factors.

IMC submitted a detailed description of its bacitracin production and n-butanol recovery processes, including schematic diagrams; total constituent analyses of the distillation bottoms for n-butanol; and flash point tests for this material.[18] In addition, IMC has submitted EP toxicity test results for arsenic, barium, cadmium, chromium, lead, silver, mercury, and selenium; analyses for reactive cyanide and sulfide; and a list of the raw materials used in the production and recovery processes. The Agency requested this information, as noted above, to determine if hazardous constituents other than those for which the waste was originally listed are present in the waste.

IMC produces bacitracin from bacterial cultures, and recovers this bacitracin after fermentation using n-butanol. IMC's n-butanol recovery process involves steam distillation, condensation, azeotropic separation, and re-circulation. The still bottoms produced are largely water (>99%), with n-butanol, suspended biological solids, and fermentative enzymes comprising the balance. The still bottoms are routed to a spray irrigation system, where they are diluted with water to a concentration of 0.2 percent and sprayed over a 100 acre lot. IMC claims that its distillation process generates a non-hazardous waste with the listed constituent of concern not present at levels of regulatory concern. IMC also claims that this waste is not hazardous for any other reason.

Twenty grab samples of the still bottoms were collected by IMC during the period from October 1980 to February 1981. In order to obtain representative samples of individual batches, the still bottoms were circulated in the still for several hours, then routed to a storage tank where 10–20 gallons of still bottoms were bled off and mixed to ensure homogenity. A quart sample was taken from the large sample, sealed, and subsequently analyzed for total n-butanol content, flash point determinations, and EP toxicity. The 20 single grab samples were taken from 20 individual samples. Two additional samples were also taken in this way in December 1984 for additional EP toxicity analyses. Testing was not conducted for the other constituents of F003 (acetone, ethyl acetate, ethyl benzene, ethyl ether, methyl isobutyl ketone, cyclohexanone, and methanol) since they are not used in IMC's processes and are reasonably not expected to be present in the waste. Due to the uniformity with which the fermentation and distillation processes operate, and because no raw materials containing hazardous constituents are used in the processes, IMC claims that the samples collected and analyzed are representative of the variations in constituent concentrations of the waste.

Ignitability tests using the Pensky-Martens closed cup tester revealed a flash point of at least 210 °F for all samples. The analytical data indicated that n-butanol was present at concentrations of less than 0.5 percent.

EP toxicity analyses of the still bottoms for the EP toxic metals revealed the maximum concentrations reported in Table 1.[19]

TABLE 1.—MAXIMUM CONCENTRATIONS

	EP leachate test results (mg/1)
As	0.004
Ba	<0.01
Cd	<0.1
Cr	0.24
Pb	0.62
Hg	0.0046
Se	0.023
Ag	0.006

Based upon the Agency's review of the raw materials lists provided by IMC, the Agency concludes that no other hazardous constituents are likely to be present or subsequently formed in the waste. Reactive cyanide and sulfide were identified at the following levels, respectively: 0.2 mg/l and 0.52 mg/l. Oil and grease content of the waste reached a maximum of 280 mg/l. IMC claims that the maximum volume of waste generated per year at their facility is 4200 cubic yards.

B. Agency Analysis and Action

IMC has demonstrated that its solvent recovery system produces a non-hazardous waste. The Agency believes that the twenty two samples collected from the still bottoms over a four-month period (October 1980–February 1981) and in December 1984 were non-biased and more than adequately represent any variations which may occur in the waste stream petitioned for exclusion. Each sample is indicative of a waste produced by a batch process which is

[17] See Footnote 9.

[18] IMC has determined, through testing of a series of spiked still bottom samples, that up to two percent of n-butanol in the still bottoms would still maintain a flash point of greater than 140 °F.

[19] Since the waste is less than 0.5% solids by weight, the total constituent concentrations of the waste serve as the EP leachate concentrations. (See 40 CFR 261, Appendix I, for the EP toxicity test procedure.)

conducted regularly (up to four times a week) and which is highly consistent from batch to batch. The chosen sampling method is believed by the Agency to adequately characterize the waste, and does not mask the variability of the waste. Due to the nature and consistency of the manufacturing operations involved (*i.e.*, the facility is not a job shop and production does not vary seasonally), the Agency believes that the samples are representative of the waste generated by IMC.

This waste was listed solely for ignitability. The waste does not exhibit any of the characteristics of hazardous waste, including ignitability.[20]

The Agency has evaluated the mobility of the EP toxic metals from the still bottom wastes using the vertical and horizontal spread (VHS) model.[21] The Agency's evluation of the 4200 cubic yards of waste generated annually and the corresponding maximum extract levels, using the VHS model, generated the compliance point concentrations given in Table 2.

TABLE 2.—VHS MODEL: COMPLIANCE POINT CONCENTRATIONS (mg/l)

	Still bottom	Regulatory standard
As	0.0006	0.05
Ba	<0.0015	1.0
Cd	0.015	0.01
Cr	0.037	0.05
Pb	0.095	0.05
Hg	0.0007	0.002
Se	0.0035	0.01
Ag	0.0009	0.05

The still bottom exhibited arsenic, barium, chromium, mercury, selenium, and silver levels below their respective National Interim Primary Drinking Water Standards (NIPDWS). These constituents, therefore, are not of regulatory concern.

The maximum values produced for cadmium and lead both exceed their respective NIPDWS. Based on further testing, however, we believe the levels of cadmium and lead are not of concern. In particular, the cadmium value can be traced to a relatively high detection limit (<0.1 mg/l) used in early analyses; subsequent analyses with a lower detection limit produced maximum EP leachate values of <0.001 mg/l for Cd, yielding a maximum VHS value of <0.00015 mg/l at the compliance point. The maximum value for lead was found to be due to the presence of soldered pipes in the solvent recovery apparatus. These pipes have since been replaced with stainless steel pipes, and subsequent analyses produced maximum EP values of <0.01 mg/l Pb, which yield a maximum VHS value of <0.0015 mg/l. Cadmium and lead, therefore, are not of regulatory concern.

Since this waste is being land applied, the waste was also evaluated using the Agency's proposed land application VHS model.[22] This model, which allows approximately a three-fold dilution in the aquifer, yielded the following constituent concentrations.

TABLE 3.—VHS MODEL FOR LAND APPLICATION (mg/l)

	Still bottom	Regulatory standard
As	0.001	0.05
Ba	0.003	1.0
Cd	<.0003	0.01
Cr	0.077	0.05
Pb	0.003	0.05
Hg	0.0015	0.002
Se	0.007	0.01
Ag	0.002	0.05

Of all the EP toxic metals tested with the land application model, only chromium was found to exceed its National Interim Primary Drinking Water Standard (*i.e.*, all the EP metals, except chromium, are not of regulatory concern). This leachate value was generated in early analyses of the waste, however; subsequent analyses produced maximum EP values of <0.001 mg/l Cr, which yield a compliance point concentration of <0.0003 mg/l. Since no metal-containing compounds are used in IMC's process, and none are expected to be present in the waste, we believe the source of chromium was the soldered pipes formerly present in the solvent recovery apparatus. Since these pipes have been replaced with stainless steel pipes, and additional analyses for chromium show it to be present in the waste at levels below the National Interim Primary Drinking Water Standard, we believe that chromium is not of regulatory concern.

Reactive cyanide and sulfide in the waste are not considered to be of environmental concern. Cyanide is not used in IMC's process, and the total concentration of reactive cyanide in the waste (0.2 mg/l) does not exceed the U.S. Public Health Service's suggested drinking water standard.[23] Reactive cyanide and sulfide levels in the waste are also below the air threshold limits of 10 ppm set by the American Conference of Governmental Industrial Hygienists.[24] These constituents are, therefore, not of regulatory concern. Furthermore, the Agency believes that no other hazardous constituents are present in the waste based on our review of the raw materials used by IMC in their production processes.

The Agency believes that this waste is non-hazardous (for all reasons) and as such should be excluded from hazardous waste control. The Agency proposes, therefore, to grant a final exclusion to International Minerals and Chemical Corporation, located in Terre Haute, Indiana, for its still bottom residues from its bacitracin production process. The Agency also believes that IMC should be allowed to continue to handle their waste as non-hazardous under their existing temporary exclusion. (The Agency notes that any changes to the manufacturing or treatment processes will require IMC to file an addendum to their petition.[25] Any future changes to these processes that could affect the physical or chemical characteristics of the sludge will require a re-demonstration of the non-hazardousness of the waste.).

IV. Monsanto Industrial Chemicals Company

A. Petition for Exclusion

Monsanto Industrial Chemicals Company's (Monsanto), W.C. Krummich facility located in Sauget, Illinois, produces chlorine from the electrolysis of aqueous sodium chloride or potassium chloride in DeNora mercury cells. In October, 1981, Monsanto petitioned the Agency to exclude its treated brine purification muds presently listed as EPA Hazardous Waste No. K071—Brine purification muds from the mercury cell process in chlorine production, where separately prepurified brine is not used. The listed constituent of concern is mercury.

Based upon the Agency's review of their petition, Monsanto was granted an informal conditional exclusion in March, 1982.[26] The basis for granting the

[20] The Agency has not evaluated this waste in terms of the toxicity of n-butanol, since the basis for listing was only ignitability and since n-butanol is not an Appendix VIII hazardous constituent.

[21] See footnote 5.

[22] See the November 27, 1985 **Federal Register**, Appendix I, 50 *FR* 48953.

[23] See footnote 7.

[24] See footnote 8.

[25] See footnote 9.

[26] On March 11, 1982, a memorandum was sent from the Acting Deputy Associate Enforcement Counsel to the Regions indicating, among other things, that the Office of Solid Waste had made a peliminary determination to grant the delisting petition submitted by Monsanto for the K071 wastes generated at their Sauget, Illinois plant. The memo suggested that the Region use discretion when dealing with this waste until our decision was

Continued

informal exclusion was the low total concentration and the immobile form of the constituent of concern (mercury) in the waste. On November 8, 1984, the Hazardous and Solid Waste Amendments were enacted. In part, the Amendments require the Agency to consider factors (including additional constituents) other than those for which the waste was originally listed, if the Agency has a reasonable basis to believe that such additional factors could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. 6921(f).) As a result, the Agency has re-evaluated Monsanto's petition to: (1) Determine if the petition should be granted based on the original listing criteria, and (2) evaluate the waste for factors (other than those for which the waste was originally listed) to determine whether the waste is non-hazardous. Today's notice summarizes and gives the results of our re-evaluation of their petition.

Monsanto has submitted a detailed description of its manufacturing and treatment processes, including schematic diagrams; total constituent analyses and EP toxicity test results of the treated brine purification muds for mercury. Monsanto also submitted total constituent analyses of the waste for arsenic, barium, cadmium, chromium, cyanide, lead, nickel, selenium, and silver; EP toxicity test results of the treated brine purification muds for lead; [27] and total oil and grease analyses on repreentative waste samples. Monsanto further submitted a list of raw materials used in the manufacturing process. The Agency requested this information, as noted above, to determine whether hazardous constituents, other than those for which the waste was originally listed, are present in the waste at levels of regulatory concern.

Monsanto produces chlorine gas and either sodium hydroxide or potassium hydroxide using a mercury cell (DeNora) process (i.e., electrolysis of sodium chloride brine or potassium muriate). Depleted brines are dechlorinated and resaturated with rock salt for the sodium system or chemical grade potassium muriate for the potassium system. These purified brines are then fed, on a continuous basis, to the mercury cells. The DeNora cells contain metal anodes and flowing mercury cathodes. Mercury amalgams of either sodium or potassium, formed in the cells, react with soft water in the decomposers to form hydrogen and caustics.

The chlorine gas is cooled, dried, compressed, and distributed to on-site users; the hydrogen gas is also cooled and distributed to on-site users; and the caustic is filtered, cooled, and stored for both on-site use and off-site sale. Process waste liquors and rain water are collected and treated in a sodium hydrosulfide process and Akzo resin to remove mercury prior to discharge.

Brine purification muds are discharged from the bottom of the sodium chloride saturator once per week. The material is collected in a dumpster/drain box. The brine purification muds are kept in the dumpster/drain box for 24 hours, during which time, the liquid portion drains through the screen partitions to a lower level of the box. The wet solids remain above the screen partitions. The liquid portion is combined with make-up water, sodium hydroxide, and chlorine gas, and the mixture is agitated and sparged in the NaOCl tank. This liquid is used to leach the mercury from the solids retained inthe top layer of the dumpster/drainer box.

The leaching solution is pumped into the dumpster/drainer box until all solids are covered. After a period of 24 hours, the leaching solution is drained from the box and the brine purification muds are then water washed twice for a period of two hours each. The leaching solution and spent water washes are discharged from the bottom of the dumpstèr/drainer box to the liquids treatment (sulfide precipitation/Akzo resin process) area. Monsanto claims that the treated brine purification muds contained in the dumpster/drainer box are non-hazardous due to the immobile nature and negligible level of mercury in the waste. Monsanto also believes that their waste is not hazardous for any other reason.

Six random samples of the treated brine purification muds were collected from the dumpster/drainer box each week (generated once weekly). The six samples were placed in a one gallon jar and sent to the laboratory for complete compositing and analyses. Monsanto's original petition was based on 15 composite samples collected between October 28, 1980 and September 22, 1981. The brine purification mud, composed mainly of insolubles ($ClSO_4$, $CaCO_3$ and Na_2SO_4), rocks dirt, and trace amounts of carbon, was analyzed for total and EP concentrations of mercury. The total concentration of mercury ranged from a low of 2 ppm to a high of 15 ppm, with the average value being 7.8 ppm. The EP toxicity concentration of mercury ranged from a low of 0.0005 ppm to a high of 0.037 ppm. The average value and 95 percent confidence level for the EP toxicity concentration of mercury was 0.0123 ppm, and 0.0170 ppm, respectively.

Monsanto sampled another 8 batches from the dumpster/drainer box (2 on September 12, 1983, and 3 each on September 19 and 26, 1983) in order to analyze for total oil and grease (TOG) content. The TOG content of the treated brine purification muds ranged from a low of 1.5 ppm to a high of 42 ppm, with the average total oil and grease concentration of 9.31 ppm.[28] On February 6, 1984 and January 21, 1985, Monsanto collected an analyzed an additional five composite samples of the treated brine purification muds for total constituent analysis of the non-listed EP toxic metals, nickel, and cyanide; these samples were randomly collected from the dumpster/drain box. The maximum total constituent concentrations are presented in Table 1.

Monsanto elected not to perform leachate analyses on the non-listed metals due to the low total constituent concentrations (see footnote 19). Upon Agency review of this data, however, Monsanto was requested to provide a minimum of four representative samples tested for lead using the EP toxicity test. The agency requested this analysis because ½oth of the total concentration of lead (55.0 ppm) exceeded the level of regulatory concern for lead in drinking water.

TABLE 1.—MAXIMUM TOTAL CONSTITUENT CONCENTRATIONS BRINE PURIFICATION MUDS (mg/kg)

As	Ba	Total [1]		CN	Pb	Ni	Se	Ag
		Cd	Cr					
0.5	40	1.5	4.8	1.0	55	131	0.38	1.0

[1] Hexavalent chromium is the listed constituent of concern; however, the concentration of total chromium is low enough to make a determination of hexavalent chromium unnecessary.

Monsanto collected, using the above methodology (*i.e.*, one composite sample

published in the Federal Register. Since that time, however, another letter was sent to the company indicating that the informal exclusion has been withdrawn and that Monsanto would have to handle this waste as hazardous until a final decision was granted.

[27] EP toxicity analyses for the treated brine purification muds were not required for arsenic, barium, cadmium, chromium, cyanide, nickel, selenium, and silver due to the low total constituent concentrations of these contaminants in the waste (*i.e.*, assuming a 20-fold dilution when extracting 100 grams of solids into 2 liters of water and a theoretical 100% leaching, the maximum possible EP extract concentration was below the constituents' level of regulatory concern).

[28] The one sample which resulted in 42 ppm of TOG, was the only sample stored in a sample bottle having a cap with a wax paper lining. The remaining 7 sample bottles had aluminum lined caps.

per week), an additional five samples of the treated brine purification muds between June 7, and July 27, 1985, and analyzed them for lead using the EP toxicity test. All five values were below the detection limit of 0.5 mg/1. Table 2 presents the maximum EP toxicity concentrations of the non-listed metals and cyanide.[29]

TABLE 2.—MAXIMUM EP TOXICITY CONCENTRATIONS BRINE PURIFICATION MUDS (mg/l)

As	Ba	Cd	Cr	CN	Pb	Ni	Se	Ag
0.025	2.0	0.075	0.240	0.05	0.5	6.5	0.019	0.05

Monsanto believes that all of the samples collected during the following periods, October 28, 1980 to September 22, 1981; September 12, 1983 to September 26, 1983; February 6, 1984 to January 21, 1985; and June 7, 1985 to July 27, 1985, are representative of both the listed and non-listed constituent concentrations in the waste. The petitioner further states that the manufacturing process used at the facility is operated in a consistent manner and that the use of raw materials does not vary over time. Consequently, they believe that the samples collected adequately characterize their brine muds.

Monsanto also submitted a complete list of all raw materials used in their production process and treatment process. This list indicates that no Appendix VIII hazardous constituents, other than those tested for, are used in the process and that formation of any of these constituents is highly unlikely. Monsanto also provided data indicating that the treated brine muds are not ignitable, corrosive, or reactive as defined in 40 CFR Part 261.21–23. The Monsanto petition states that a maximum of 480 tons of treated brine purification muds are generated per year.

B. Agency Analysis and Action

Monsanto has sufficiently demonstrated that its waste treatment system produces a non-hazardous brine purification mud. The Agency believes that the batch composite samples tested for total constituent analyses and EP toxicity concentrations of mercury; the batch composite samples tested for total constituent concentrations of the non-listed metals and cyanide; and the batch composite samples tested for EP toxicity concentrations of lead, collected from the dumpster/drainer box were not biased and adequately represent any variations that may occur in the waste stream petitioned for exclusion. The key factor that could vary toxicant concentrations in the waste would be the use of different raw materials due to changes in the product line being manufactured. Monsanto is not a job shop nor does it have seasonal product variations; therefore, the Agency believes Monsanto has substantiated their claim that the manufacturing and treatment processes are uniform and consistent and believes that the samples collected are representative of the waste generated and treated by Monsanto.

The Agency has evaluated the mobility of the constituents from Monsanto's waste using the vertical and horizontal spread (VHS) model.[30] The Agency's evaluation of Monsanto's treated brine purification muds, using the maximum values for estimated annual muds generation and reported/calculated EP leachate concentrations as input parameters, has resulted in the maximum predicted compliance point concentrations for both the listed and non-listed constituents exhibited in Tables 3 and 4, respectively.

TABLE 3.—COMPLIANCE POINT CONCENTRATION FOR THE LISTED CONSTITUENTS (mg/l)

Constituent	Compliance point concentration	Regulatory standard
Hg (maximum)	0.0011	0.002

The treated brine purification muds exhibited mercury levels below the National Primary Drinking Water Standard. Mercury is, therefore, not of regulatory concern.

TABLE 4.—COMPLIANCE POINT CONCENTRATION FOR THE NON-LISTED CONSTITUENTS (mg/l)

Constituent	Compliance point concentration	Regulatory standard
As	0.0008	0.05
Ba	0.065	1.0
Cd	0.002	0.01
Cr	0.0008	0.05
CN	0.002	0.2
Ni	0.201	0.350
Pb	0.015	0.05
Se	0.0006	0.01
Ag	0.002	0.05

The Agency has also concluded that no other inorganic hazardous constituents are present in the treated brine purification muds at levels of regulatory concern (*i.e.*, none of the non-listed constituents exhibit compliance point concentrations exceeding the regulatory standard (see Table 4)). In particular, the VHS model predicted that the treated brine purification muds would exhibit levels of arsenic, barium, cadmium, chromium, lead, selenium, and silver (at the compliance point) significantly below the National Primary Drinking Water Standard, as well as nickel levels below the interim standard currently being used by the Agency.[31] These constituents, therefore, are not of regulatory concern.

The total cyanide levels in the treated brine purification muds would not exhibit free cyanide at levels expected to create a health hazard through exposure to contaminated ground water. This conclusion is based on the VHS model, using the total cyanide content of the wastes as the input to the aquifer (0.006 mg/l).[32] The cyanide concentration predicted at the compliance point is well below the U.S. Public Health Service's suggested drinking water standard.[33]

The free cyanide levels in the treated waste are also not expected to create a health hazard through inhalation. The level of total cyanide and the levels of free cyanide and photodegradable cyanide are not sufficient to generate cyanide vapors at levels exceeding the workroom air threshold limit of 10 ppm set by the American Conference of Governmental Industrial Hygienists (ACHIH).[34]

In addition, the Agency finds no hazardous organic constituents (listed in Appendix VIII) present in the waste. The Agency's review of the list of raw materials used by Monsanto in their production process shows that Monsanto does not use any other Appendix VIII constituents in their processes.

The Agency believes that, based upon the constituents and factors evaluated, Monsanto's treated brine purification muds are non-hazardous and should be excluded from hazardous waste control. The Agency, therefore, proposes to grant an exclusion to Monsanto Industrial Chemicals Company's W.C. Krummich facility, located in Sauget, Illinois, for its treated brine purification muds, as described in its petition. [The Agency notes that any changes to the manufacturing or treatment processes will require Monsanto to file an

[29] All values were calcuated by taking 1/20 of the total constituent concentration, except for lead which are actual extraction results.

[30] See footnote 5.

[31] See footnote 16.

[32] Although an EP extraction for cyanide was not done, the total constituent concentration was used. If one were to assume 100 percent leaching and the 20X dilution allowed by the EP extraction test, the EP leachate value would be 0.01 mg/l.

[33] See footnote 7.

[34] See footnote 8.

addendum to their petition or a new petition.[35] Any future changes to these processes that could affect the physical or chemical characteristics of the sludge will require a re-demonstration of the non-hazardousness of the waste.)

V. Square D Company

A. Petition for Exclusion

Square D Company (Square D), located in Oxford, Ohio, is involved in the manufacture of products that distribute and control electricity (*e.g.*, ducts, junction boxes, and service fittings). Square D has petitioned the Agency to exclude its treated sludge, presently listed as EPA Hazardous Waste No. F006—Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum. Square D has petitioned to exclude its waste because it does not meet the criteria for which it was listed.[36]

The listed constituents of concern for EPA Hazardous Waste No. F006 are cadmium, hexavalent chromium, nickel, and cyanide (complexed). Square D claims that its wastewater treatment process generates a non-hazardous sludge because the constituents of concern, although present in the waste, are in essentially an immobile form. They further believe that this waste is not hazardous for any other reason.

Square D has submitted a detailed description of its electroplating and wastewater treatment processes, including schematic diagrams; total constituent analyses and EP toxicity test results of the sludge for cadmium, total chromium, and nickel; and total constituent analysis and a distilled water leach test for total cyanide. Free cyanide concentrations in the sludge were also determined. In addition, Square D submitted total constitutent analyses and EP toxicity test results for arsenic, barium, lead, mercury, selenium, and silver; and total oil and grease analyses on representative waste samples. Furthermore, Square D submitted detailed descriptions of all raw materials used in the manufacturing process and test results on representative waste samples for methyl ethyl ketone, 1,1,1-trichloroethane, xylene, and polychlorinated biphenyls. These organic contaminants were analyzed since they were identified as components of materials used in the process. The Agency requested this information, as noted above, to determine if hazardous constituents other than those for which the waste was originally listed are present in the waste.

Square D manufactures electrical distribution and control equipment, including junction boxes, ducts, and service fittings. This equipment is plated and/or painted in two plating lines and a paint line. One of the plating lines consists of a steel cycle and a copper cycle and involves alkaline and acid cleaning, non-cyanide zinc plating, and tin plating. The other plating line consists of an aluminum cycle and a copper cycle and involves alkaline and acid cleaning, tin immersion, copper cyanide plating, and tin plating. The paint line involves two iron phosphate pretreatment systems which use alkaline cleaners, acid phosphate cleaners, and non-chromic sealers.

Square D's waste treatment system involves chlorine destruction of cyanide, sodium metabisulfite reduction of hexavalent chromium, neutralization, polymer addition, and clarification. The clarified sludge is then pumped to a 5,000 gallon holding cell, air agitated into a homogeneous mixture, and pumped to a filter press for dewatering. The resultant sludge has a solids content of between 30 and 50 percent.

A total of 17 filter press sludge samples were collected and analyzed. Square D's initial demonstration was based upon four grab samples collected during a three-month period in 1982. Samples were collected twice from random areas of the filter press on each sampling day and placed, unpreserved, into polyethylene containers. The sealed samples were shipped to a laboratory and analyzed within 30 days of sampling. These grab samples were subjected to EP leachate analysis for all EP toxic metals and a distilled water leach test for cyanide, and a total constituent analysis for the listed constituents of concern. An additional four samples were collected from the filter press over a one-week period and analyzed for total and free cyanide. A composite of these four samples also analyzed for leachable cyanide. In addition, Square D collected four composite samples over a two-month period in 1983. Random grab samples were taken from the filter press plate daily between June 17 and 27, 1983, July 1, and 26, 1983, July 29 and August 10, 1983, and August 10 through August 24, 1983. The samples were composited per period and subsequently analyzed for leachable and total concentrations of all the EP toxic metals, nickel, and cyanide; these samples were also analyzed for their oil and grease content. A final set of samples was collected in 1984. Four of the samples were analyzed for methyl ethyl ketone, 1,1,1-trichloroethane, xylene, and polychlorinated biphenyls; a fifth sample was analyzed for leachable concentrations of all the EP toxic metals, nickel, and cyanide. Square D claims that the samples collected are representative of any variation of the listed and unlisted constituent concentrations in the waste. The petitioner further claims that the manufacturing processes used at the facility are operated on a 16-hour per day schedule, 260 days per year and that during all times the inputs to the treatment plant remain constant. Consequently, they believe that the samples collected and analyzed fully characterize their waste.

Total constituent analyses of the filter press sludge for the listed constituents revealed the maximum concentrations reported in Table 1. EP toxicity analyses for these same constituents revealed the maximum concentrations reported in Table 2.

TABLE 1.—MAXIMUM TOTAL CONSTITUENT ANALYSES FOR THE LISTED CONSTITUENTS (mg/kg)

	Cd	Cr	Ni	CN total	CN free
Filter press sludge	5.96	1500	102.5	7.4	6.06

TABLE 2.—MAXIMUM EP LEACHATE CONCENTRATIONS FOR THE LISTED CONSTITUENTS (mg/1)

	Cd	Cr total[1]	Ni	CN total
Filter press sludge	0.18	1.1	0.67	[2] 0.27

[1] Hexavalent chromium is listed as the constituent of concern for this waste; however, since the concentration of total chromium is low, a determination of the concentration of hexavalent chromium is unnecessary.
[2] From distilled water leach test.

Total constituent and EP toxicity analyses for the non-listed metals revealed the maximum concentrations reported in Table 3. Total oil and grease

[35] See footnote 9.

[36] Square D originally submitted their petition on November 12, 1982. On November 8, 1984, the Hazardous and Solid Waste Amendments of 1984 were enacted. In part the Amendments require the Agency to consider factors (including additional constituents) other than those for which the waste was originally listed, if the Agency has a reasonable basis to believe that such additional factors could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. 6921(f).) In anticipation of either enactment of this legislation or regulatory changes by the Agency, EPA requested additional information from Square D. This information was submitted by Square D on July 5, 1984, and December 12, 1985.

content reported for the filter press sludge did not exceed 0.58 percent. Square D also submitted a list of raw materials used in their process. This list indicated that methyl ethyl ketone, 1,1,1-trichloroethane, and xylene are used in their processes. Polychlorinated biphenyls (PCBs) were also indicated as possible constituents of the waste stream.

TABLE 3.—MAXIMUM CONCENTRATIONS FOR THE NON-LISTED CONSTITUENTS

	Total constituent analysis (mg/kg)	EP Leachate Analysis (mg/1)
As	<0.05	<0.05
Ba	48.1	[1]15.0
Pb	50.1	2.2
Hg	0.09	<0.05
Se	1.95	<0.1
Ag	9.76	0.18

[1] The Agency considers this value as an outlier since it is outside of the calculated 95% confidence interval (3.6 mg/1) using a sample population of 17. The next highest leachate value is <1.0 mg/1. Additionally, a total constituent analysis for barium was not processed for this sample.

Square D therefore, was asked to analyze for these contaminants; the maximum concentrations of these organics found in the filter press sludge are reported in Table 4. The list of raw materials submitted by Square D indicated that no other Appendix VIII hazardous constituents, other than those tested for, are used in their processes and that formation of any of these constituents is highly unlikely. Square D also provided test data indicating that the sludge is not ignitable, corrosive, or reactive. Square D claims to generate a maximum of 120 tons per year of filter press sludge.

TABLE 4.—MAXIMUM TOTAL CONCENTRATIONS OF THE ORGANIC CONSTITUENTS

Filter press sludge	Total constituent analysis (ppm)
Methyl ethyl ketone	<1
1,1,1-trichloroethane	<1
Xylene	<1
Polychlorinated biphenyls	<1

B. Agency Analysis and Action

Square D has demonstrated that its waste treatment system produces a non-hazardous sludge. The Agency believes that the seventeen samples collected from the filter press were non-biased and more than adequately represent any variations which may occur in the waste stream petitioned for exclusion. Manufacturing process wastes are discharged to the wastewater treatment facility according to the chemical composition of the stream. Spent acid and alkali, hexavalent chromium-bearing solutions, acid and alkaline rinses, and cyanide-bearing solutions are discharged to separate pits for treatment. These reaction pits are controlled automatically by pH and or REDOX equipment. The treated waste streams are combined, neutralized, and dewatered. The Agency is satisfied that the sampling methods conducted by Square D are valid since samples collected on any day would not be expected to vary widely from any other day based upon process engineering considerations. The Agency believes Square D's claim that the manufacturing and treatment processes are uniform and consistent are well substantiated, since this facility does not perform as a job shop or have seasonal product variations. The Agency's conclusion was confirmed by a comparison of the total constituent analyses of each sample as well as a statistical analysis of the EP toxicity data from each sample. This analysis would have detected any significant variability in the waste, however, no significant variability was detected (i.e., the standard deviation was low).[37]

The Agency has evaluated the mobility of the constituents from Square D's waste using a vertical and horizontal spread (VHS) model.[38] The Agency's evaluation of Square D's 120 tons of filtered sludge[39] and the maximum extract levels for the listed constituents of concern using the VHS model has generated the compliance point concentrations shown in Table 5.

TABLE 5.—VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATIONS FOR THE LISTED CONSTITUENTS (ppm)

	Cd	CR total	Ni	Cn
Filter press sludge	0.006	0.034	0.021	0.008
Regulatory standard	0.010	0.050	0.350	0.200

The filter press sludge exhibited cadmium and chromium levels (at the compliance point) below the National Interim Primary Drinking Water Standards, nickel levels below the Agency's interim standard,[40] and cyanide levels below the U.S. Public Health Service's suggested drinking water standard.[41]

The free cyanide levels in the treated waste are also not expected to create a health hazard through inhalation. The level of total cyanide, and the levels of free cyanide and photodegradable cyanide are not sufficent to generate cyanide vapors at levels exceeding the workroom air threshold limit of 10 ppm set by the American Conference of Government Industrial Hygienists (ACGIH).[42] These constituents, therefore, are not of regulatory concern.

The Agency has also evaluated the mobility of the non-listed EP toxic metals from Square D's waste using the VHS model. The model generated compliance point concentrations below the National Interim Primary Drinking Water Standards for each metal as shown in Table 6. We believe, therefore, that these contaminants are not of regulatory concern.

TABLE 6.—VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATIONS FOR THE NON-LISTED CONSTITUENTS (ppm)

	As	Ba	Pb	Hg	Se	Ag
Filter press sludge	0.0015	0.46	[1] 0.028	0.0015	0.003	0.006
Regulatory standards	0.05	1.0	0.05	0.002	0.01	0.05

[1] Although the maximum EP leachate concentration for lead was reported as 2.2 ppm, the Agency chose to use the 95 percent confidence level instead, based partly on the large number of samples analyzed. The Agency believes that the 2.2 ppm value was an outlier (non-representative) value, and this conclusion is supported by the calculated 95 percent confidence value of 0.898 ppm.

Furthermore, the Agency concludes that no organic hazardous constituents are present in the waste at levels of regulatory concern (*i.e.*, none are above their respective regulatory standard at the compliance point). In particular, the raw materials used by Square D in their manufacturing process indicate that methyl ethyl ketone, polychlorinated biphenyls, 1,1,1-trichloroethane, and xylene are either used in the process, or although not used, may be present in the filtered press sludge. In analyzing for these contaminants, we found no detectable levels of these contaminants in the waste.

To confirm that the detection limits are not too high, the Agency has

[37] See standard T-test in Biometry: The Principles and Practices of Statistics in Biological Research; Sokal, R. and Rohlf, F.J., 1960.

[38] See footnote 5.

[39] Square D generate 120 tons of sludge per year of waste; however, the VHS model specifies a minimum waste generation rate of 475 cubic yards. The Agency assumes the density of the waste to be 1 ton/cu/ yd. unless otherwise specified. See 50 *FR* 48900 (November 27, 1985) for a discussion of the minimum waste generation rate.

[40] See footnote 16.

[41] See footnote 7.

[42] See footnote 8.

evaluated the mobility of the toxic organic constituents from Square D's filter press sludge using the methods outlined in Appendix I of the November 27, 1985, Federal Register notice (50 FR 48953–67).[43] Compliance point concentrations of the constituents of concern are calculated and presented in Table 7. In all cases, the concentration of these contaminants at the compliance point is below the regulatory standard. We, therefore, believe that these contaminants are not of regulatory concern.

TABLE 7.—VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATIONS OF ORGANIC CONTAMINANTS (PPM)

Constituent	Filter press sludge [1]	Regulatory standard [2] (mg/l)
Methyl ethyl ketone	0.018	2.0
1,1,1-trichloroethane	0.001	1.0
Polychlorinated biphenyls	1.32×10^{-2}	8×10^{-6}

[1] Maximum total concentrations were assumed to be the detection limit (i.e., detection limits=1 ppm, thus maximum total concentration=1 ppm).
[2] See the public docket for an explanation of the derivation of these regulatory standards.

The Agency believes that this waste is non-hazardous (for all reasons) and as such should be excluded from hazardous waste control. The Agency, therefore, proposes to grant an exclusion to Square D Company (Oxford Plant) located in Oxford, Ohio, for its filter press sludge generated by its electroplating operations, as described in its petition. (The Agency notes that any changes to the manufacturing or treatment processes will require Square D to file an addendum to their petition or anew petition.[44] Any future changes to these processes that could effect the physical or chemical characteristics of the sludge will require a redemonstration of the hazard of the waste.)

VI. Vulcan Materials Company

A. Petition For Exclusion

Vulcan Materials Company (Vulcan), located in Port Edwards, Wisconsin, produces chlorine and caustics for commercial use. In March 1981, Vulcan petitioned the Agency to exclude its brine purification muds and saturator insolubles, presently listed as EPA Hazardous Waste No. K071—Brine purification muds from the mercury cell process in chlorine production where separately prepurified brine is not used. The listed constituent of concern is mercury.

Based upon the Agency's review of their petition, Vulcan was granted a temporary exclusion in December 1981 (See 46 *FR* 61283). The Agency's basis for granting the temporary exclusion was the low migration potential of the constituent of concern, namely mercury. Due to the inherent variability of the waste, however, the exclusion was conditioned to ensure that each batch of brine muds exhibited acceptable levels (less than 50 ppb) of leachable mercury.

On November 8, 1984, the Hazardous and Solid Waste Amendments were enacted. In part, the Amendments require the Agency to consider factors (including additional constituents) other than those for which the waste was originally listed, if the Agency has a reasonable basis to believe that such additional factors could cause the waste to be hazardous. (See section 222 of the Amendments, 42 U.S.C. 6921(f).) As a result, the Agency, has re-evaluated Vulcan's petition to: (1) Determine whether the temporary exclusion should be made final based on the original listing criteria, and (2) evaluate the waste for factors other than those for which the waste was originally listed to determine whether the waste is non-hazardous. Today's notice presents the results of the Agency's re-evaluation of this petition.

Vulcan has submitted a detailed description of its production and treatment processes, including schematic diagrams; total constituent and EP toxicity analyses of the wastes for all the EP toxic metals and nickel; total constituent and distilled water leachate analysis for cyanide; total oil and grease content of the waste; and ignitability, corrosivity, and reactivity data. Vulcan also submitted a list of all raw materials and feed stocks (and Material Safety Data Sheets for all trade name materials) used in the production processes. The Agency requested this information, as noted above, to determine whether constituents other than those for which the waste was listed are present in the waste at levels of regulatory concern.

Vulcan produces chlorine and muriatic acid using a mercury cell process (*i.e.*, electrolysis of sodium chloride brine). Rock salt is dissolved and purified to form sodium chloride brine. The brine flows into one of 24 electrolytic cells containing metal anodes and flowing mercury cathodes. Sodium chloride is removed from the brine by electrolysis and the depleted brine is pumped back to the brine system, where additional rock salt is added. The brine is purified and pumped to the electrolytic cells, as a recirculating system. As the brine goes through the electrolytic cells, it is contaminated with mercury; thus, the brine purification muds contain mercury. The depleted brine is then pumped to the brine treatment tanks.

During the brine manufacturing process, rock salt is dissolved in the depleted brine. Approximately 97 percent of the rock salt dissolves, while the remaining three percent is removed as brine saturator insolubles. These insolubles consist of calcium, magnesium, sulfates, dirt, and rocks originating from the salt mining process. The brine saturator insolubles, resulting from the brine system, necessarily come into contact with the depleted brine, and thus, also contain mercury. The saturator insolubles are purged and pumped to the saturator purge pit for treatment.

Soda ash is added to the brine treatment tanks in order to precipitate calcium as calcium carbonate, while sodium hydroxide is added to precipitate magnesium as magnesium hydroxide. The resulting slurry is pumped to a clarifier, where the precipitates are removed as brine purification solids, and the wastewater is sent to the wastewater treatment unit (which is not considered in Vulcan's petition). The resulting brine purification solids are pumped to the clarifier purge pit.

In a smaller reactor, sulfates are removed from the brine by adding calcium chloride. The sulfates precipitate out as calcium sulfate. The slurry is then separated in the clarifier, and the resulting solids are pumped to the clarifier purge pit.

The saturator insolubles are pumped from the saturator purge pit once every two weeks, and the brine purification solids are pumped from the clarifier purge pit once every one to three days and are treated separately. The brine purification solids are pumped to a surge tank where sulfuric acid is added, thus converting calcium carbonate to calcium sulfate, and also increasing mercury solubility. The acidified calcium sulfate is then nuetralized with sodium hypochlorite to completely solubilize the mercury. The slurry is pumped to a vacuum drum filer where a filter cake is generated. The filter cake is then washed with a two stage pH water spray and is then neutralized with an additional water spray to further reduce the mercury content. The resulting filtrate is routed to the liquids treatment facility.

The saturator insolubles are treated by complete submergence in a low pH dechlorinated brine, which also reduces

[43] Xylene is considered hazardous only because it is ignitable (*i.e.*, xylene is not considered toxic). Since the waste is not ignitable, any xylene that may be present in the waste is not of regulatory concern.

[44] See footnote 9

the leachable mercury content of the waste. The liquid portion is pumped back to the brine system. In both cases, the treated brine purification muds and treated saturator insolubles are batch tested for leachable mercury concentration. If acceptable levels of leachable mercury are determined, the dewatered brine purification muds and saturator insolubles are shipped to a sanitary landfill. If higher than permissible levels of leachable mercury are found, however, the waste is either reworked or disposed of as a hazardous waste.

Vulcan sampled each batch of saturator insolubles by taking a single four ounce sample from the center of eah 2–4 cubic foot batch. The rationale for this sampling procedure ws that treatment from submergence is least effective in treating the geometric center of the mound. Vulcan also sampled each treated batch of the brine purification muds. Vulcan took one four ounce grab sample directly from the filter wheel every two hours. The grab samples were then composited and analyzed each day. A total of 266 batch composites were analyzed.

Vulcan believes that by testing each batch of treated brine purification muds and saturator insolubles they were able to detect any day to day variations in waste composition. Also, by sampling from the center of each saturator insolubles pile, a relatively small pile (2–4 cubic feet), they were able to characterize the worst case constituent concentrations of the waste. Vulcan believes that these daily samples (saturator insolubles) and daily composites (brine clarification needs) are representative of the waste because: (1) The production and treatment processes are uniform; and more importantly (2) sampling every batch allows for the detection of unacceptable leachate concentrations due to unexpected variations in raw materials, production process, and treatment process.

When the Agency requested analyses of the wastes for the other EP toxic metals, cyanide, and nickel, Vulcan, using the same sampling procedures as above, took four additional samples of the saturator insolubles and brine purification muds.

Vulcan submitted the EP extraction results from 1985 for each batch of the treated brine purification muds and the treated saturator insolubles. Using the 0.05 ppm cut-off level, as conditioned by their temporary exclusion (for mercury), 218 of the 266 (82.0%) batches of treated brine purification muds and 96 of the 101 (95.%) batches of treated saturator insolubles exhibited EP leachate levels of mercury at 0.012 ppm or less. Only one batch of treated brine purification muds exhibited an EP leachate concentration for mercury at the 0.05 ppm cut-off level. The highest EP leachate concentration for mercury, exhibited by the treated saturator insolubles, was 0.021 ppm.

The results of total constituent analyses for the non-listed metals and cyanide are presented in Table 1. Table 2 presents maximum leachate concentrations detected for the non-listed metals and cyanide contained in the treated brine purification muds, and saturator insolubles. Results from the analyses of the waste for total oil and grease ranged from 62 mg/kg to 92 mg/kg in both the treated brine purification muds and saturator insolubles.

TABLE 1.— MAXIMUM TOTAL CONSTITUENT CONCENTRATIONS (mg/kg)

Process wastes	Ag	As	Ba	Cd	Total Cr	Ni	Pb	Se	CN
Brine clarifier muds	6.7	51.2	41.0	0.074	1.8	2.0	0.661	2.6	0.2
Saturator insolubles	7.1	41.8	639	0.61	1.9	4.0	0.53	0.01	0.2

TABLE 2.—MAXIMUM EP LEACHATE CONCENTRATIONS (mg/l)

Process waste	Ag	As	Ba	Cd	Cr[1]	Ni	Pb	Se	CN
Brine purification muds	0.006	0.003	0.731	.001	0.004	[2] ND	[2] ND	0.012	[2] ND
Saturator insolubles	0.005	0.005	0.498	0.005	0.027	[2] ND	[2] ND	0.014	[2] ND

[1] Hexavalent chromium is listed as the constituent of concern; however, the low total chromium concentration indicates that hexavalent chromium would not be present at levels of regulatory concern.
[2] ND=Not Done. Analysis not completed because of low total constituent concentrations in waste (*i.e.*, assuming a theoretical 100 percent leaching of the constituent and a 20 times dilution factor when extracting 100 grams of solids into 2 liters of water, the concentration was less than the interim standard).

None of the samples exhibited any of the characteristics of ignitability, corrosivity, or reactivity as specified in 40 CFR Part 261.21-23. In addition, examination of the Material Safety Data Sheets for all materials used, which could possibly enter the petitioned wastes, did not identify any other Appendix VIII hazardous constituents. Vulcan generates a maximum of 4463 tons of treated materials (4074 tons of treated clarifier brine muds and 389 tons of treated saturator insolubles) a year.

B. Agency Analysis and Action

Vulcan has sufficiently demonstrated that the treated clarifier brine muds and saturator insoluables are non-hazardous. Based on the data presented in Vulcan's petition, the Agency believes that the petitioner has adequately characterized the treated brine clarifier muds and saturator insolubles, and that the samples analyzed reflect the day to day variation in production. The Agency believes Vulcan's claim that the manufacturing and treatment processes can be operated in a uniform manner, since this facility does not perform as a job shop and there are no seasonal product variations. We also agree with Vulcan that the sampling procedure used represents a relatively worst-case. Thus, the Agency considers the sampling procedures used by Vulcan to be adequate, and as such, no significant day-to-day variation in constituent concentrations was detected. A comparison of the total constituent concentration with the EP leachate concentration of each constituent, as well as an evaluation of the QA/QC data (spike concentrations and percent recovery data) did not detect any significant variability in the waste (*i.e.*, the standard deviation was very low).[45] The Agency, therefore, concludes that the samples collected by Vulcan are representative of the treated brine clarifier muds and saturator insolubles.

The Agency has evaluated the mobility of the constituents from Vulcan's treated brine clarifier muds and saturator insolubles using the vertical and horizontal spread (VHS) model.[46] The Agency's evaluation of Vulcan's 4,463 tons of waste and the maximum EP leachate extracts levels for the non-listed constituents of concern using the VHS model generated the

[45] See footnote 37.
[46] See footnote 5.

compliance point concentrations presented in Table 3. The VHS model predicted that both the treated brine clarifier muds and saturator insolubles would exhibit levels of arsenic, barium, cadmium, chromium, lead, selenium, and silver (at the compliance point) significantly below the National Primary Drinking Water Standards, as well as nickel levels [47] below the interim standard. These constituents therefore, are not of regulatory concern.

TABLE 3.—CALCULATED COMPLIANCE POINT CONCENTRATIONS (mg/l)

Constituents	Brine clarifier muds	Saturator insolubles	Regulatory standard (mg/l)
Ag	.0009	.0008	0.05
As	.0005	.0008	0.05
Ba	.1133	.0772	1.0
Cd	.0002	.0008	0.01
Cr	.0006	.0042	0.05
Ni	[1] ND	[1] ND	0.350
Pb	[1] ND	[1] ND	0.05
Se	.0019	.0022	0.01
CN	[1] ND	[1] ND	0.2

[1] See footnote 2 of Table 2.

The total cyanide levels in the treated brine clarifier muds and saturator insolubles would not exhibit levels expected to create a health hazard through exposure to contaminated ground water. This conclusion is based on the calculated compliance point concentration from the VHS model, using the total cyanide content of the wastes as the input (0.2 ppm).[48] The cyanide concentration predicted at the compliance point was well below the U.S. Public Health Service's suggested drinking water standard.[49]

In addition, the free cyanide levels in the treated waste are not expected to create a health hazard through inhalation. In particular, the level of total cyanide, and free cyanide and photodegradable cyanide are not sufficient to generate cyanide vapors at levels exceeding the workroom air threshold limit of 10 ppm set by the American Conference of Governmental Industrial Hygienists (ACGIH).[50]

The Agency has also concluded that there are no organic constituents present in the treated waste. The Agency's conclusions are based on the examination of Vulcan's raw materials, knowledge of the process, and analytical test results provided by Vulcan.

Using Vulcan's maximum annual waste generation rate of 4463 tons and the VHS model, the Agency computed the maximum allowable EP extract concentration of mercury in the waste.[51] In order for Vulcan's waste to be considered non-hazardous, the maximum EP leachate concentration for mercury has to be 0.0129 ppm or less. The EP extraction data for mercury provided by Vulcan was when they were required to assure that no batch exhibited an EP leachate concentration above 0.05 ppm. Analyis of the 1985 batch treatment records for both the brine clarifier and saturator insolubles revealed that 82 percent of the brine clarifier muds and 95 percent of the saturator insolubles exhibited EP leachate concentrations at 0.012 ppm or less. Additionally, 52.6 percent of the treated brine clarifier muds and 66 percent of the treated saturator insolubles exhibited EP leachate levels of 0.002 ppm or less.

Vulcan asserts that if they reprocessed all batches exhibiting EP leachate concentrations exceeding 0.0129 ppm, instead of the presently stipulated level of 0.05 ppm, they would significantly reduce the number of treated batches exceeding the cut-off level. The Agency agrees with Vulcan, in that if the maximum allowable EP extract level of mercury was 0.0129 ppm, instead of the current 0.05 ppm level, Vulcan would have reprocessed those batches, thereby reducing both the EP leachate concentration of mercury and the number of failing batches. The Agency is still concerned, however, with the possible batch to batch variation in EP leachate mercury levels. We will continue to require, therefore, that each and every batch be analyzed for EP leachable mercury.

The Agency believes that Vulcan has submitted data indicating that the concentration of leachable mercury can be controlled by its treatment system. To assure that the level of mercury in the leachate is maintained at an acceptable level, the Agency will continue to require Vulcan to test each batch of treated brine clarifier muds and saturator insolubles prior to disposal. If EP analyses indicate that the leachate concentration of mercury exceeds 0.0129 ppm, the waste must be re-treated or disposal of as a hazardous waste and will be subject to the regulatory requirements of 40 CFR Parts 262 through 267.

The Agency, therefore, concludes pursuant to this condition, that the treated brine clarifier muds and saturator insolubles, are non-hazardous (for all reasons), and as such, should continue to be excluded from hazardous wastes controls, if conditions permit. The Agency, therefore, proposes to grant a final conditional exclusion to the Vulcan Materials Company located in Port Edwards, Wisconsin, for its treated brine clarification muds and its treated saturator insolubles, as described in its petition. (The Agency notes that any changes to the manufacturing or treatment processes will require Vulcan to file an addendum to their petition or a new petition.[52] Any future changes to these processes that could effect the physical or chemical characteristics of the sludge will require a redemonstration of the hazard of the waste.)

VIII. Whirlpool Corporation.

A. Petition for Exclusion

Whirlpool Corporaion (Whirlpool), located in Danville, Kentucky, is involved in the production of trash compactors, refrigerator ice makers, refrigerator compressor electric motors, and miscellaneous electrical wiring components. Whirlpool has petitioned the Agency to exclude its wastewater treatment sludge, presently listed as EPA Hazardous Waste No. F006—Wastewater treatment sludges from electroplating operations except from the following processes: (1) Sulfuric acid anodizing of aluminum; (2) tin Plating on carbon steel; (3) zinc plating (segregated basis) on carbon steel; (4) aluminum or zinc-aluminum plating on carbon steel; (5) cleaning/stripping associated with tin, zinc, and aluminum plating on carbon steel; and (6) chemical etching and milling of aluminum. Whirlpool has petitioned to exclude its waste because it does not meet the criterial for which it was listed.

Based upon the Agency's review of their petition, Whirlpool was granted a temporary exclusion in August 1981 (see 46 FR 40156). The Agency's basis for granting the temporary exclusion was the low migration potential of the constituents of concern, namely cadmium, hexavalent chromium, cyanide (complexed), and nickel. Since that time, the Hazardous and Solid Waste Amendments of 1984 were enacted. In part, the Amendments require the Agency to consider factors

[47] See footnote 16.

[48] The total constituent concentration was used in calculating the leachate concentration since an extraction for cyanide was not conducted. If one were to assume 100 percent leaching and the 20X dilution allowed by the leachate test, the EP leachate value would be 0.01 mg/L.

[49] See footnote 7.

[50] See Footnote. 8.

[51] The VHS model allows a dilution factor of 6.43 when evaluating 4463 tons of waste. The maximum allowable EP extraction level of mercury, therefore, would be: 0.002 (NIPDW Standard) X 6.43 (dilution factor), or 0.0129 ppm.

[52] See footnote 9.

(including additional constituents) other than those for which the waste was listed, if the Agency has a reasonable basis to believe that such additional factors could cause the waste to be hazardous. (see section 222 of the Amendments, 42 U.S.C. 6921(f).) The Agency, therefore, has re-evaluated Whirlpool's petition to: (1) Determine whether the temporary exclusion should be made final based on the original listing criteria; and (2) evaluate the waste for factors (other than those for which the waste was listed) to determine whether the waste is non-hazardous. This notice presents the results of the Agency's re-evaluation of this petition.

Whirlpool has submitted a detailed description of its manufacturing and treatment processes, including schematic diagrams; total constituent and oily EP toxicity analyses of the waste for all the EP toxic metals and nickel; total constituent analyses for total cyanide and cyanide amenable to chlorination; the total oil and grease content of the waste; and ignitability, corrosivity, and reactivity data. Whirlpool also submitted a list of raw materials and feed stocks (and material safety data sheets for all trade name materials) used in the manufacturing processes. The Agency requested this information, as noted above, to determine whether constituents other than those for which the waste was listed are present in the waste at levels of regulatory regualtory concern.

Whirlpool assembles residential trash compactors, vacuum cleaners, refrigerator ice makers, refrigerator compressor electric motors, and miscellaneous electrical wiring components. At this facility Whirlpool also manufactures the parts for the trash compactors, as well as assembles them. The remaining products are assembled from parts (manufactured elsewhere) on an assembly line. In the first phase, cold rolled steel is cut, formed, and welded. The welded parts are then carried by conveyor through a seven stage phosphating system: (1) And (2) alkaline cleaning; (3) water rinse; (4) iron phosphating; (5) water rinse; (6) sealing; and (7) deionized water rinse. The parts are then air dried in a cool down tunnel.

Next, trash compactor parts are electronically charged and conveyed through an electrodepositing tank in order to deposit a uniform coating of epoxy-brown anionic paste primer on the part. This paint system uses a solvent containing 0.3 percent paraffins, 0.3 percent naphthenes, and 99.4 percent aromatic hydrocarbons (C_8 or larger). The parts are then rinsed and conveyed through an oven for drying .

When the rinsate from the electrodepositing process is contaminated, it is recycled back into the electrodepositing tank as make-up, and fresh deionized water in added in its place. In the last phase, a final coat of paint is sprayed onto the parts using electrostatic semi-airless hand sprayers or electrostatic automatic Ransbury disks (xylene is the solvent used in this process). In the hand spraying process, the electronically charged parts are sprayed over a continually recirculating water wash spray booth. Over spray, if any, is chemically floculated and skimmed from the tank daily. The collected paint material is then drum and disposed, separately, as a hazardous waste. In the automatic spraying process, parts are again electronically charged and sprayed, only this time, the over-spray is caught by disposable cardboard walls. The parts are then oven dried and sent to final assembly.

The contaminated rinse waters (from stages 3, 5, and 7), the spent alkaline cleaners (neutralized with HCL) and the spent phosphating/sealing baths are all sent to a collection tank, where they are held prior to treatment. These waters account for 99 percent of the generated wastewaters. The remaining one percent of total wastewater generated, arise from annual discharges of (1) the electrodeposition spent rinse water (when the tank is cleaned); (2) the decant water from the water paint touch-up booths (used to catch over-spray from the electrostatic semi-airless hand spraying process); (3) infrequent floor washing; (4) discharge from a small alkaline parts washer and associated rinse water used in stages 1 and 2; and (5) water soluble oils generated from coolant fluid replacement. Over spray and gun cleaning solvent (xylene) never enter the waste water treatment system. The over spray is collected and disposed of as a hazardous waste, as described earlier; and solvent used for cleaning spray guns are sprayed directly into a drum for disposal.

The annual cleaning of the water wash tanks, used in the final paint application process, results in the discharge of approximately 10,000 gallons of wastewater containing no more than one percent xylene to the wastewater treatment system. This discharge becomes mixed with another 40,000 to 50,000 gallons of normal process wastewater. Whirlpool believes that this dilution is sufficient to render the mixture non-ignitable.

The Agency has reviewed the material safety data sheets for all trade name raw mateials and has not identified any organic constitutents listed in Appendix VIII and, therefore, concludes that no organic hazardous constitutents enter the wastewater treatment system.

The wastewater from the collection tank and miscellaneous wastewaters flow to an automated pH adjustment unit. The pH of the wastewater is maintained at 8.0. If the pH exceeds 8.1, however, aluminum sulfite is added, and should the pH fall below 7.9, hydrated lime is added. The neutralized wastewater is then pumped from the holding tank to a clarifier. In the pumping process, a liquid polymer is added to the stream. In the clarifier, the solids (aided by the polymer) settle to the bottom, and the supernatant is discharged directly to the municipal treatment plant. The sludge is removed from the clarifier every 2–3 working days and sent to the rotating vacuum filter press. The resulting filter cake is passed through a cake of amorphous diatomaceous earth and sent by conveyor to a dumpster for shipment to a sanitary landfill. The supernatant resulting from the vacuum filter is routed to the pH adjustment unit and reworked.

Filter cake samples were taken one day a week for four weeks.[53] These samples were collected every half hour, and between 7 and 9 samples were composited for each daily sample. Since only one total constituent analysis for arsenic, barium, lead, mercury, selenium, and silver was performed, an additional three samples were requested. Three grab samples were taken randomly from the filter press on January 27, 29, and 31, 1986. Whirlpool claims that these composites are representative of the waste because of the uniformity of the manufacturing and treatment process, and because the sampling from the filter press allows a consistent and un-biased sampling of daily filter cake production. Whirlpool claims that these samples reflect any variation of constitutent concentration in the waste, and that the raw materials do not change over time. Whirlpool, therefore, believes that the samples collected are representative and thus adequately characterize the waste filter cake.

Total constituent analysis for the listed and non-listed constitutents in the sampled filter-cake resulted in the concentrations shown in Table 1.

[53] Whirlpool's initial demonstration for EP leachate was not considered (since the total oil and grease content of the waste exceeded one percent, and thus, were invalidated).

TABLE 1.—FILTER CAKE, TOTAL CONSTITUENT ANALYSIS (mg/kg)

As	Ba	Cd	Cr	Pb	Hg	Se	Ag	Ni	Total CN
1.98	51	0.3	67	120	0.075	0.48	2.3	5.5	<0.2

Analyses for total oil and grease content were completed and the oil and grease content of the waste ranged from 6.0 to 7.6 percent. Due to the waste's high oil and grease content, Whirlpool completed the EP extraction on a minimum of four representative samples using the oily waste methology. Table 2 presents the maximum oily-EP leachate concentrations detected for both the listed and non-listed constitutents.

TABLE 2.—FILTER CAKE, MAXIMUM OILY EP EXTRACTION ANALYSIS, MOBILE METAL CONCENTRATION (mg/l)

As	Ba	Cd	Cr	Pb	Hg	Se	CN[1]	Ag	Ni
0.017	1.37	<0.006	0.438	0.066	<0.004	<0.013	ND	0.388	2.89

[1] An analysis for leachable cyanide was not completed because of the low total concentration of cyanide in the waste (*i.e.*, total and free cyanide were less than 20 times the drinking standard for cyanide 0.2 mg/1).

Examination of the Material Safety Data Sheets, as stated earlier, did not detect any other Appendix VIII compounds. It is possible for the solvent containing 0.3 percent naphthenes, 0.3 percent paraffins, and 99.4 percent aromatic hydrocarbons (C_8 or larger), and xylene to enter the wastestream; however, it is expected that these solvents would flash off in the clarifier and not be present in the dewatered filter cake.[54] Additionally, the solvent's only access to the wastewater treatment system is through a annual discharge which only contributes one percent of the overall total wastewater generated and thus, would be rendered non-ignitable by dilution. Furthermore, none of the samples exhibited any of the characteristics of ignitability, corrosivity, or reactivity as specified in 40 CFR Part 261.21-.23. Whirlpool claims to generate a maximum of 294 tons of sludge per year.

B. Agency Analysis and Action

Whirlpool has demonstrated that the filter cake generated at their Danville, Kentucky facility is non-hazardous. Based on the data presented in Whirlpool's petition, the Agency believes that the petitioner has adequately characterized the waste filter cake, and that the samples analyzed reflect the day to day variation in production. The Agency believes Whirlpool's claim that the manufacturing and treatment process are uniform and consistent are well substaniated, since this facility does not perform as a job shop and there are no seasonal product variations. Thus, we consider the sampling procedures used by Whirlpool to be adequate, and as such, no significant day-to-day variation in constituent concentrations were detected. A comparison of the total constituent concentration with the oily-EP leachate concentration of each constituent, as well as an evaluation of the QA/QC data (spike concentrations and percent recovery data) did not detect any significant variability in the waste (*i.e.*, the standard deviation was very low).[55] The Agency, therefore, concludes that the analytical information provided by Whirlpool is representative of the waste filter cake.

The Agency has evaluated the mobility of the constituents from Whirlpool's waste filter cake using the vertical and horizontal spread (VHS) model.[56] The Agency's evaluation of Whirlpool's 294 tons of filter cake using the maximum oily EP extract levels for the constituents of concern in the VHS model generated the compliance point concentrations presented in Table 3.[57]

TABLE 4.—VHS Model: Calculated Compliance Point Concentrations (ppm)

	Cd	Cr	Ni	CN
Filter cake	<0.0002	0.013	0.089	<0.006
Regulatory standards (ppm)	0.01	0.05	0.350	0.20

The VHS model predicted that the waste filter cake material would exhibit cadmium and chromium levels (at the compliance point) significantly below the National Interim Primary Drinking Water Standards, as well as nickel levels[58] below the interim standard. These constituents, therefore, are not of regulatory concern.

The total cyanide levels in the waste filter cake would not exhibit free cyanide at levels expected to create a health hazard through exposure from contaminated ground water. This conclusion is based on the VHS model using the free cyanide content of the waste as the input. Although a leachate test for cycnide was not performed, the total constituent concentration was used (*i.e.*, if one were to assume 100 percent leaching and only dilution permitted by the oily-EP extraction test, the leachate value would be 0.01 mg/l). The cyanide concentration predicted at the compliance point was well below the U.S. Public Health Service's suggested drinking water standard.[59]

In addition, the free cyanide levels in the filter cake are also not expected to create a health hazard through inhalation. In particular, the level of total cyanide, an thus free cyanide and photodegradable cyanide, is not present in sufficient concentrations in order to volatilize at concentrations exceeding the workroom air threshold limit of 10 ppm set by the American Conference of Government Industrial Hygienists (ACGIH).[60]

The Agency has also concluded that there are no other hazardous inorganic or organic constituents present in the waste filter cake at levels of regulatory concern. The Agency's conclusions are based on the examination of Whirlpool's raw materials, knowledge of the process, and analytical test results provided by Whirlpool. In particular, the non-listed EP toxic metals' Oily-EP extraction concentrations (Table 3) were evaluated using the VHS model. Using these values, the Agency predicts levels at the compliance point to be significantly below the applicable regulatory standards, as seen in Table 5.

Table 5.— VHS MODEL: CALCULATED COMPLIANCE POINT CONCENTRATIONS (ppm)

	As	Ba	Pb	Hg	Se	Ag
Filter cake	0.0005	0.042	0.002	<0.0002	<0.0004	0.012
Regulatory standards	0.05	1.0	0.5	0.002	0.01	0.05

[54] The aromatic hydrocarbon solvent has a measured 100 percent evaporation rate of 65 minutes.

[55] See footnote 37.

[56] See footnote 5.

[57] Whirlpool generates 294 tons of sludge per year of waste; however, the VHS model specifies a minimum waste generation rate of 475 cubic yards. The Agency assumes the density of the waste to be 1 ton/cubic yard unless otherwise specified. (See 50 FR 48900, (November 27, 1985) for a discussion of the minimum waste generation rate.)

[58] See footnote 16.

[59] See footnote 7.

[60] See footnote 8.

The Agency also has reviewed each of the chemical components used in each raw material, as supplied by raw material lists, and material safety data sheets. The Agency has concluded from this review that no other Appendix VIII hazardous constituents are present in the petitioned waste. We also agree with Whirlpool that neither solvents, aromatic hydrocarbon, nor xylene, could be present in the waste at sufficient levels since the waste is not ignitable.

The Agency concludes that the waste filter-cake is non-hazardous (for all reasons), and as such, should continue to be excluded from hazardous waste control. The Agency, therefore, proposes to grant a final exclusion to Whirlpool Corporation's Danville division located in Danville, Kentucky for its dewatered phosphating filter cake, as described in their petition. (The Agency notes that any changes to the manufacturing or treatment processes will require Whirlpool to file an addendum to their petition or a new petition.[61] Any future changes to these processes that could effect the physical or chemical characteristics of the sludge will require a redemonstration of the hazard of the waste.)

Effective Date

This rule, if promulgated, will become effective immediately. The Hazardous and Solid Waste Amendments of 1984 amended Section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here since this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense which would be imposed on the petitioners by an effective date six months after promulgation and the fact that such a deadline is not necessary to achieve the purpose of section 3010, we believe that these rules should be effective immediately. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This proposal to grant exclusions is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding wastes generated at specific facilities from EPA's list of hazardous wastes, thereby enabling the facility to treat its waste as non-hazardous.

Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effect will be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this proposed regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Dated: April 29, 1986.

Marcia Williams,

Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR Part 261 is proposed to be amended as follows:

PART 261—INDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation of Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended [42 U.S.C. 6905, 6912(a), 6921, and 6922].

2. In Appendix IX, add the following wastestreams in alphabetical order:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste Description
Acro Building Products.	Sugarcreek OH	Dewatered wastewater treatment sludge (EPA Hazardous Waste No. F019) generated from the chemical conversion coating of aluminum after [insert date of final publication].
Hanover Wire Cloth Division.	Hanover, PA	Dewatered filter cake (EPA Hazardous Waste No. F006) generated from electroplating operations after [insert date of final publication].
International Minerals and Chemical Corp.	Terre Haute, IN	Spent non-halogenated solvents and still bottoms (EPA Hazardous Waste No. F003) generated from the recovery of n-butyl alcohol after [insert date of final publication].
Square D Co	Oxford, OH	Dewatered filter press sludge (EPA Hazardous Waste No. F006) generated from electroplating operations after [insert date of final publication].
Whirlpool Crop	Danville, KY	Dewatered filter cake (EPA Hazardous Waste No. F006) generated from electroplating operations after [insert date of final publication].

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES

Monsanto Industrial Chemicals Co.	Suget, IL	Brine purification muds (EPA Hazardous Waste No. K071) generated from the mercury cell process in chlorine production, where separately prepurified brine is not used after [insert date of final publication].

[61] See footnote 9.

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES—Continued

Vulcan Materials Co.	Port Edwards, WI..	Brine purification muds (EPA Hazardous Waste No. K071) generated from the mercury cell process in chlorine production, where separately prepurified brine is not used after [insert date of final publication]. To assure that mercury levels in this waste are maintained at acceptable levels, the following conditions apply to this exclusion: Each batch of treated brine clarifier muds and saturator insolubles must be tested (by the extraction procedure) prior to disposal and the leachate concentration of mercury must be less than or equal to 0.0129 ppm. This exclusion does not apply to wastes for which either of these conditions is not satisified.

[FR Doc. 86-10099 Filed 5-6-86; 8:45 am]
BILLING CODE 6560-50-M

INTERSTATE COMMERCE COMMISSION

49 CFR Part 1312

[Ex Parte No. MC-170 (Sub-No. 1)]

Short Notice Effectiveness for Independently Filed Single-Factor Motor-Water Rates

AGENCY: Interstate Commerce Commission.

ACTION: Supplemental request for comments to notice of proposed rules.

SUMMARY: The Commission held an open voting conference on March 12, 1986, to consider the issues in this proceeding. Notice of the proposed rule change was published at 50 FR 20920 (1985). At the conference, the Commission voted to request comments from the Federal Maritime Commission (FMC) on the merits of the proposal. In light of this action, and in an effort to develop a more complete record, the record has been reopened for additional comments from the parties as well as any other interested persons on the merits of the proposed rule. Comments are sought specifically with regard to the effect of the proposal on port-to-port water carrier operations under the jurisdiction of the FMC, on the degree and type of competition within the various markets involved, and on the various competitive relationships that exist in this trade, including the effect of the different notice periods and tariff filing requirements. Comments are also invited on TOTE's request in No. MC-C-10924, *Sea-Land Freight Service, Inc., and Sea-Land Service, Inc.—Alaskan Trade Substituted Service—Petition for Declaratory Order*, for a broad investigation of the Alaska trade, as it relates to this proceeding.

DATE: Comments are due June 6, 1986.

ADDRESS: The original and, if possible, 10 copies of comments should be sent to: Ex Parte No. MC-170 (Sub-No. 1), Case Control Branch, Office of the Secretary, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT:
Ardith M. Horne, (202) 275-1764
or
Howell I. Sporn, (202) 275-7691.

SUPPLEMENTARY INFORMATION: Pursuant to a petition filed by Carolina Freight Carriers Corporation (Carolina), the Commission proposed amending 49 CFR 1312.39 to reduce the notice period for independently filed single-factor domestic motor-water property rates. Rate reductions and new rates would become effective on 1-day's notice and rate increases would become effective on 7-workdays' notice, rather than on the 30-days' notice currently required. Comments supporting the proposal were filed by Carolina, Foss L&T Co., Matson Navigation Company, and William J. Monheim. Comments in opposition were filed by Crowley Maritime Corporation and its subsidiary, Trailer Marine Transport Corporation, Sea-Land Service, Inc., Totem, Ocean Trailer Express, Inc. (TOTE), and the Puerto Rico Maritime Shipping Authority.

Additional information is contained in the Commission's decision. To purchase a copy of the decision, write to T. S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289-4357 (DC Metropolitan area) or toll free (800) 424-5403.

The Commission certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. To the extent that small entities will be affected, the effects should be positive. Regulatory lag will be reduced, and small carriers will be able to price their services more competitively, to their benefit and the benefit of their shippers.

This action will not significantly affect either the quality of the human environment or conservation of energy resources.

List of Subjects in 49 CFR Part 1312

Motor carriers, Freight forwarders, Maritime carriers, Freight, exports, Imports, and intermodal transportation.

Decided: April 24, 1986.
By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

James H. Bayne
Secretary.

Appendix

Part 1312 of Title 49 of the Code of Federal Regulations is proposed to be amended as follows:

PART 1312—[AMENDED]

1. The authority citation for 49 CFR Part 1312 continues to read as follows:

Authority: 49 U.S.C. 10762; 5 U.S.C. 553.

2. Paragraph (h)(4) of § 1312.39 would be revised to read as follows:

§ 1312.39 Miscellaneous provisions which may be filed on less than statutory notice.

* * * * *

(h) * * *

(4) *Joint intermodal traffic.* This paragraph (h) applies to single-factor, motor-water property rates, charges, rules and other provisions, but does not apply to any other single-factor rate, charge, rule, or other provision having application over any segment of the lines of another transportation mode.

* * * * *

[FR Doc. 86-10187 Filed 5-6-86; 8:45 am]
BILLING CODE 7035-01-M

Notices

Federal Register
Vol. 51, No. 88
Wednesday, May 7, 1986

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

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

May 2, 1986.

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

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

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from:

Department Clearance Officer, USDA, OIRM, Room 404–W Admin. Bldg., Washington, DC 20250, (202) 447–2118

Comments on any of the items listed should be submitted directly to:

Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attn: Desk Officer for USDA

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

Extension

- Food and Nutrition Service

OMB Circular A–102 (Financial Status Report)
SF–269 and SF–270
Recordkeeping; Quarterly
State or local governments; Businesses or other for-profit; Federal agencies or employees; 985 responses; 1,489 hours; not applicable under 3504(h)
Anneva Hackley (703) 756–3166

- Statistical Reporting Service

June & December Enumerative Survey
Semi-Annually; Annually
Farms; 153,140 responses; 53,570 hours; not applicable under 3504(h)
Lee Sandberg (202) 447–6820

New

- Agricultural Stabilization and Conservation Service

Poll of Wheat Producers
One time
Farms; 984,850 responses; 32,828 hours; not applicable under 3504(h)
Larry Walker (202) 382–9685

Reinstatement

- Rural Electrification Administration

Uniform System of Accounts Prescribed for REA Electric Borrowers
REA Bulletin 181–1
Recordkeeping
Small businesses or organizations; recordkeeping; 1 hour; not applicable under 3504(h)
Roland S. Heard (202) 382–8227

Revision

- Agricultural Stabilization and Conservation Service

7 CFR Part 1430, Dairy Products; Dairy Termination Program ASCS–304, ASCS–305, ASCS–306, ASCS–309, ASCS–313, ASCS–315, ASCS–318, and CCC–312
On occasion
Farms; 654,000 responses; 124,165 hours; not applicable under 3504(h)
Clarence Domire (202) 447–7673

- Farmers Home Administration

7 CFR 1944–N, Housing Preservation Grants
On occasion; Quarterly, Recordkeeping
Individuals or households; State or local governments; Non-profit institutions; 3,800 responses; 9,700 hours; not applicable under 3504(h)
John H. Pentecost (202) 382–8983

Jane A. Benoit,
Departmental Clearance Officer.

[FR Doc. 86–10226 Filed 5–6–86; 8:45 am]
BILLING CODE 3410–01–M

Food Safety and Inspection Service

[Docket No. 86–018N]

SLD Policy Memoranda; Semi-Annual Listing

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This document lists and makes available to the public memoranda issued by the Standards and Labeling Division (SLD), Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service (FSIS), which contain significant new applications or interpretations of the Federal Meat Inspection Act, the Poultry Products Inspection Act, the regulations promulgated thereunder, or departmental policy concerning labeling.

FOR FURTHER INFORMATION CONTACT: Margaret O'K. Glavin, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6042.

SUPPLEMENTARY INFORMATION: FSIS conducts a prior approval program for labels or other labeling (specified in 9 CFR 317.4, 317.5, 381.132, and 381.134) to be used on federally inspected meat and poultry products. Pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), and the regulations promulgated thereunder, meat and poultry products which do not bear approved labels may not be distributed in commerce.

FSIS' prior label approval program is conducted by label review experts within SLD. A Variety of factors, such as continuing technological innovations in food processing and expanded public concern regarding the presence of various substances in food, has generated a series of increasingly complex issues which SLD must resolve as part of the prior label approval process. In interpreting the Acts or regulations to resolve these issues, SLD

may modify its policies on labeling or develop new ones.

Significant or novel interpretations or determinations made by SLD are issued in writing in memorandum form. This document lists those SLD policy memoranda issued from October 1, 1985, through April 1, 1986.

Persons interested in obtaining copies of any of the following SLD policy memoranda, or in being included on a list for automatic distribution of future SLD policy memoranda, may write to: Printing and Distribution Section, Paperwork Management Branch, Administrative Services Division, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

Memo No.	Title and date	Issue	Reference
081A	Rescindment of Policy Memo 081, October 22, 1985	What processing procedures must be used for a meat or poultry product to be labeled as "marinated"?	(Replaces Policy Memo 081).
018A	Dual Weight Requirements for Stuffed Poultry Labels, December 26, 1985.	When must the label on consumer size retail packages of stuffed poultry and other poultry products declare the total net weight of the product and the minimum weight of the poultry in the product?	9 CFR 381.121(b), (Replaces Policy Memo 018).
50-B	Canadian Style Bacon, December 19, 1985	Appropriate labeling and standards of identity for "Canadian Style Bacon"?	(Replaces Policy Memo 50A).
070A	Fat and Lean Claims, March 31, 1986	What are the guidelines for the review and approval of labeling claims relating to the fat and lean content of meat and poultry products?	(Replaces Policy Memo 070).
071A	Lite and Similar Terms, March 31, 1986	What are the guidelines for the review and approval of labeling terms such as "Lite," "Light," "Lightly" and similar terms?	(Replaces Policy Memo 071).
092	Veal Parmagiana Made With Veal Patties, December 16, 1985	What is the appropriate labeling for Veal Parmagiana made with Veal Patties?	N/A
093	Adjusting for Protein Fat Free (PFF) Controlled Pork, December 16, 1985.	What formula adjustments are necessary when using protein fat free (PFF) controlled pork to meet minimum meat content standards in other products?	9 CFR 319.104, 9 CFR 319.105, and 9 CFR 301.2(tt).
094	Sulfiting Agents, February 19, 1986	Whether sulfiting agents present in processed fruits or vegetables used as ingredients of meat food products or poultry food products need to be declared on the label of the finished product	9 CFR 381.7(d)(2).
094-A	Sulfiting Agents, March 13, 1986	Whether sulfiting agents present in processed fruits or vegetables used as ingredients of meat food products or poultry food products need to be declared on the label of the finished product	9 CFR 318.7(d)(2), (Replaces Policy Memo 094).
095	Colored Casings-Labeling of Meat and Poultry Products, February 27, 1986.	What are the labeling requirements for meat and poultry products in colored casings that do not transfer color to the products?	9 CFR 301.2(ii)(4), 9 CFR 381.1(b)(30)(iv), and 9 CFR 317.2(j)(8).

The SLD policies specified in these memoranda will be uniformly applied to all relevant labeling applications unless modified by future memoranda or more formal Agency action. Applicants retain all rights of appeal regarding decisions bases upon these memoranda.

Done at Washington, DC, on May 2, 1986.

Margaret O'K. Glavin,

Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service.

[FR Doc. 86-10040 Filed 5-6-86; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review

AGENCY: International Trade Administration, Import Administration, Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party as defined in section 771(9) of the Tariff Act of 1930 may request, in accordance with § 553.53a of 335.10 of the Commerce Regulations, that the Department of Commerce ("the Department") conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review

Not later than May 31, 1986, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in May, for the following periods:

	Period
Antidumpting Duty Proceeding	
Portland cement from the Dominican Republic	05/01/85-04/30/86
Circular pipes & tubes from Taiwan	05/01/85-04/30/86
Portable electric typewriters from Japan	05/01/85-04/30/86
Impression fabric from Japan	05/01/85-04/30/86
Countervailing Duty Proceeding	
Bricks from Mexico	01/01/85-12/31/86
Ceramic tile from Mexico	01/01/85-12/31/85
Viscose rayon staple fiber from Sweden	01/01/85-12/31/85

A request must conform to the Department's interim final rule published in the **Federal Register** (50 FR 32556) on August 13, 1985. Seven copies of the request should be submitted to the Deputy Assistant Secretary for Import Administration, International Trade Administration, Room B-099, U.S. Department of Commerce, Washington, DC 20230.

The Department will publish in the **Federal Register** a notice of "Initiation of Antidumping (Countervailing) Duty Administrative Review," for requests received by May 31, 1986.

If the Department does not receive by May 31, 1986 a request for review of entries covered by an order or finding listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: April 30, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-10210 Filed 5-6-86; 8:45 am]

BILLING CODE 3510-DS-M

[C-201-401]

Bars and Shapes From Mexico; Final Results of Changed Circumstances Administrative Review and Revocation of Countervailing Duty Orders

AGENCY: International Trade Administration, Import Administration Commerce.

ACTION: Notice of Final Results of Changed Circumstances Administrative Review and Revocation of Countervailing Duty Orders.

SUMMARY: On February 21, 1986, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty orders on bars and shapes from Mexico and announced its tentative determination to revoke the order. The review covers the period from October 1, 1984.

We gave interested parties an opportunity to comment. We received no comments. We determine that domestic interested parties are no longer interested in continuation of the orders. Therefore, we will revoke the orders In accordance with the petitioner's notification, the revocation will apply to all bars and shapes entered, or withdrawn from warehouse, for consumption on or after October 1, 1984.

EFFECTIVE DATE: October 1, 1984.

FOR FURTHER INFORMATION CONTACT: Richard Carreau or Stephen Nyschot, Office of Compliance, International Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 6292) the preliminary results of its changed circumstances administrative review of the countervailing duty orders on bars and shapes from Mexico (49 FR 32887, August 17, 1984). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Mexican certain deformed concrete reinforcing bars, hot-rolling carbon steel bars, and hot-rolled carbon steel bar-size shapes. For a further description of these products, see Appendix A of this notice. The review covers the period from October 1, 1984.

Final Results of Review and Revocation

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received no comments.

As a result of our review, we determine that domestic interested parties are no longer interested in continuation of the countervailing duty orders on bars and shapes from Mexico and that the orders should be revoked on this basis.

Therefore, we are revoking the orders on bars and shapes from Mexico effective October 1, 1984. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn for warehouse, for consumption on or after October 1, 1984 without regard to countervailing duties and to refund any estimated countervailing duties collected with respect to those entries.

This notice does not cover unliquidated entries of bars and shapes from Mexico which were entered, or withdrawn from warehouse, for consumption prior to October 1, 1984. The Department will cover any entries not covered in a prior administrative review and entered, or withdrawn from warehouse, for consumption before October 1, 1984 in a separate review, if one is requested.

This administrative review, revocation, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675 (b), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: April 30, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

Appendix A—Product Description

1. The term "certain deformed concrete reinforcing bars" covers hot-rolled steel bars, of solid cross-section, having deformations of various patterns on their surfaces, as currently provided for in items 606.7900 and 606.8100 of the Tariff Schedules of the United States Annotated (TSUSA).

2. The term "hot-rolled carbon steel bars" covers hot-rolled carbon steel products of solid section not conforming completely to the respective specifications given in the headnotes to Schedule G, Part 2, Subpart B of the TSUSA for blooms, billets, slabs, sheet pads, wire rods, plates, sheets, strip, wire, rails, joint bars or tie plates which have cross-sections in the shape of circles, segments of circles, ovals, triangles, rectangles, hexagons or octagons, as currently provided for in items 606.8310, 606.8330, 606.8350, and 606.8600 of the TSUSA. This description includes flat hot-rolled carbon steel products in coils or cut to length with a width of 8 inches or less and a thickness of 0.1875 inch or more.

3. The term "hot-rolled carbon steel bar-size shapes" covers hot-rolled carbon steel angles, shapes and sections, not drilled, not punched and not otherwise advanced, and not conforming completely to the specifications given in the headnotes to Schedule G, Part 2, Subpart B of the TSUSA for blooms, billets, slabs, sheet bars, bars, wire rods, plates, sheets, strip, wire, rails, joint bars, tie plates or any tubular products set forth in the TSUSA having a maximum cross-sectional dimension of less than 3 inches, as currently provided for it items 609.8050, 609.8070, and 609.8090. This definition includes carbon steel angles, channels, special sections and other assorted carbon steel shapes with a maximum cross-sectional dimension of less than 3 inches.

[FR Doc. 86-10207 Filed 5-6-86; 8:45 am]

BILLING CODE 3510-DC-M

[C-433-402]

Carbon Steel Products From Austria; Final Results of Changed Circumstances; Administrative Review and Revovation of Countervailing Duty Order

AGENCY: International Trade Administration, Import Administration Commerce.

ACTION: Notice of final results of changed circumstances; administrative review and revocation of countervailing duty order.

SUMMARY: On March 14, 1986, the Department of Commerce published the preliminary results of its administrative review of the countervailing duty order on carbon steel products from Austria and announced its tentative determination to revoke the order. The review covers the period from March 20, 1985.

We gave interested parties an opportunity to comment. We received no comments. We determine that domestic interested parties are no longer interested in continuation of the order. Therefore, we will revoke the order. In accordance with the petitioner's and the domestic interested parties; notifications, the revocation will apply to all carbon steel products entered, or withdrawn from warehouse, for consumption on or after March 20, 1985.

EFFECTIVE DATE: March 20, 1985.

FOR FURTHER INFORMATION CONTACT: Cynthia Gozigian or Bernard Carreau, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2786.

SUPPLEMENTARY INFORMATION:

Background

On March 14, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 8866) the preliminary results of its changed circumstances administrative review of the countervailing duty order on carbon steel products from Austria (50 FR 41546, October 11, 1985). The Department has now completed that administrative review, in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Austrian cold-rolled carbon steel flat-rolled products. For a further description of these products, see Appendix A of this notice. The review covers the period from March 20, 1985.

Final Results of Review and Revocation

We gave interested parties an opportunity to comment on the preliminary results and tentative determination to revoke. We received no comments.

As a result of our review, we determine that the domestic interested parties are no longer interested in continuation of the countervailing duty order on carbon steel products from Austria and that the order should be revoked on this basis.

Therefore, we are revoking the order on carbon steel products from Austria effective March 20, 1985. We will instruct the Customs Service to proceed with liquidation of all unliquidated entries of this merchandise entered, or withdrawn from warehouse, for consumption on or after March 20, 1985 without regard to countervailing duties and to refund any estimated countervailing duites collected with respect to those entries.

This administrative review, , revocation, and notice are in accordance with sections 751 (b) and (c) of the Tariff Act (19 U.S.C. 1675(b), (c)) and §§ 355.41 and 355.42 of the Commerce Regulations (19 CFR 355.41, 355.42).

Dated: April 30, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

Appendix A

The term "cold-rolled carbon steel flat-rolled products" covers cold-rolled carbon steel products, whether or not corrugated or crimped; whether or not painted or varnished and whether or not pickled; not cut, nor pressed, and not stamped to non-rectangular shape; not coated or plated with metal and not clad; over 12 inches in width and 0.1875 inch or more in thickness, as currently provided for in item 607.8320 of the Tariff Schedules of the United States Annotated ("TSUSA"); or over 12 inches in width and under 0.1875 inch in thickness, whether or not in coils, as currently provided for in items 607.8350, 607.8355, or 607.8360 of the TSUSA.

[FR Doc. 86-10206 Filed 5-6-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-007]

Certain High Capacity Pagers From Japan; Final Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration, Import Administration; Commerce.

ACTION: Notice of final results of antidumping duty administrative review.

SUMMARY: On August 2, 1984, the Department of Commerce published the preliminary results of its administrative review of the antidumping duty order on certain high capacity pagers from Japan. The review covered the three known manufacturers and/or exporters of this merchandise to the United States and the period November 1, 1982 through August 31, 1983.

We gave interested parties an opportunity to comment on the preliminary results. After review of the one comment we received, the final results of review are unchanged from those in the preliminary results for the two firms covered by these final results.

EFFECTIVE DATE: May 7, 1986.

FOR FURTHER INFORMATION CONTACT: Laurie A. Lucksinger or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-1130/ 5255.

SUPPLEMENTARY INFORMATION:

Background

On August 2, 1984, the Department of Commerce ("the Department") published in the **Federal Register** (49 FR 30986) the preliminary results of its administrative review of the antidumping duty order on certain high capacity pagers from Japan (48 FR 37058, August 16, 1983). The preliminary results covered the three known manufacturers and/or exporters of certain Japanese high capacity pagers to the United States and the period November 1, 1982 through August 31, 1983. In accordance with 353.53a(a) of the Commerce Regulations the petitioner, Motorola Corporation, requested that we complete the administrative review for two firms. The Department has now completed that administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are shipments of Japanese tone-only high capacity pagers. This merchandise is currently classifiable under items 685.1686 and 685.7036 of the Tariff Schedules of the United States Annotated.

The review covers two of the three known manufacturers and/or exporters, Matsushita Communication Industrial Co. and NEC Corporation, and the period November 1, 1982 through August 31, 1983.

Analysis of Comment Received

We invited interested parties to comment on the preliminary results. We received one written comment from the petitioner.

Comment: Motorola contends that NEC may be continuing to import large numbers of tone-only pagers, in unfinished condition, but identifying them as component parts rather than as "pagers". As a result, such pagers may be escaping from the coverage of the antidumping duty order. Motorola urges the Department to request certain items in the next review questionnaire: (1) Specific information on the nature of the tone-only pager components which NEC America imports; (2) the nature of the additional work NEC America performs on those components in the United States; and (3) the extent of the U.S. facilities involved in the operations. Motorola requests that the Department then verify the response.

Department's Position

We intend to act on Motorola's request in the next review.

Final Results of the Review

After review of the comment, the final results of our review are unchanged from those we presented in the preliminary results. We determine that the following margins exist for the period November 1, 1982 through August 31, 1983:

Manufacturer/exporter	Margin (percent)
Matsushita Communication Industrial Co.	109.00*
NEC Corporation	70.35

*No shipments during the period.

The Department will instruct the Customs Service to assess antidumping duties on all appropriate entries. The Department will issue appraisement instructions on each exporter directly to the Customs Service.

Further, the Department will instruct the Customs Service to collect a cash deposit of estimated antidumping duties for each firm based upon the above margins as provided in section 751(a)(1) of the Tariff Act. For any shipments from the remaining known manufacturer and exporter, not covered by this review, the cash deposit will continue to be at the rate for "other manufacturers" published in the antidumping duty order. For any shipments from a new exporter not covered by this or prior administrative reviews, whose first shipment of certain Japanese high capacity pagers occurred after August 31, 1983, and who is unrelated to any covered firm, a cash deposit of 89.97 percent shall be required. These deposit requirements are effective for all shipments of certain Japanese high capacity pagers entered, or withdrawn from warehouse, for consumption on or after the date of publication of this notice and shall remain in effect until publication of the final results of the next administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a; 50 FR 32556, August 13, 1985).

Dated: April 30, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-10208 Filed 5-6-86; 8:45 am]

BILLING CODE 3510-DS-M

Export Trade Certificate of Review

AGENCY: International Trade Administration, Commerce.

ACTION: Notice of Application.

SUMMARY: The Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, has received an application for an Export Trade Certificate of Review. This notice summarizes the conduct for which certification is sought and requests comments relevant to whether the certificate should be issued.

FOR FURTHER INFORMATION CONTACT: James V. Lacy, Director, Office of Export Trading Company Affairs, International Trade Administration, 202/377-5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (Pub. L. 97-290) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A certificate of review protects its holder and the members identified in it from private treble damage actions and from civil and criminal liability under Federal and state antitrust laws for the export conduct specified in the certificate and carried out during its effective period in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether a certificate should be issued. An original and five (5) copies should be submitted not later than May 27, 1986 to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 5618, Washington, DC 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). Comments should refer to this application as "Export Trade Certificate of Review, application number 86-00003."

Applicant: International Shippers Association, 821 Second Avenue, Suite 1400, Seattle, Washington 98104.

Application #: 86-00003.

Date Deemed Submitted: April 22, 1986.

Members (in addition to applicant): Alaska Canada Fisheries, Inc., Renton, WA; Booth Fisheries Corporation, Seattle, WA, and its controlling entity, Sara Lee Corporation, Park Ridge, IL; George S. Bush Export, Inc., Seattle, WA, and its parent company, George S. Bush & Company, Seattle, WA; Gwin, White & Prince, Inc., Wenatchee, WA; Interocean Seafoods Co., Seattle WA; Merco Intertrade, Inc., Seattle, WA; National Food Corporation, Walnut Creek, CA; Northern Products Corp., Seattle, WA; Pacific Salmon Company, Seattle WA; Pelican Seafoods, Inc., Seattle, WA; E.C. Phillips & Son, Inc., Ketchikan, AK; Rushton & Co.; Oakland, CA; Seafood Producers Cooperative, Bellingham, WA; Seafood Sales, Seattle, WA; Sitka Sound Seafoods, Inc., Seattle, WA.

Summary of the Application:

International Shippers Association ("ISA") seeks certification for the following export-related activities:

A. Export Trade and Export Markets

ISA intends to negotiate, procure, and administer Transportation Services for its Members to export finfish, shellfish, hatchery products, agricultural produce, and processed food products worldwide. Transportation Services include inland freight transportation for export shipments to a U.S. export terminal, port, or gateway; overseas freight transportation; wharfage and handling; stevedoring; storage and warehousing; insurance; forwarder services; trade documentation and services; leasing of transportation equipment and facilities; and customs clearance.

B. Export Trade Activities and Methods of Operation

ISA intends to procure and administer Transportation Services on behalf of its Members, including the negotiation of advantageous freight contracts with individual carriers, and conferences of carriers. These Export Trade Activities will be conducted for shipper Members by George S. Bush Export, Inc., an independent administrative organization. ISA Members may, independently of ISA, negotiate for and secure Transportation Services.

Membership in ISA is subject to a majority vote of the Board of Directors, and to the credit-worthiness and ability of the potential member to pay a pro-rata share of assessments to cover costs and expenses of ISA. Any Member of ISA may be removed by a majority vote, with prior notice of the vote given to the Member. Removal shall be for due cause including, but not limited to, violation of ISA Bylaws and loss of credit-worthiness. Any member may withdraw or resign from ISA, subject to obligations to pay previous assessments and to pay for services arranged by or through ISA.

Dated: May 1, 1986.

George Muller,

Deputy Director, Office of Export Trading Company Affairs.

[FR Doc. 86-10175 Filed 5-6-86; 8:45 am]

BILLING CODE 3510-DR-M

[C-580-602 and C-583-604]

Extension of the Deadline Dates for the Final Countervailing Duty Determinations and Rescheduling of the Public Hearings; Certain Stainless Steel Cooking Ware From Korea and Taiwan

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: Based upon the request of petitioner, the Fair Trade Committee of the Cookware Manufacturers Association, we are extending the deadline dates for the final determinations in the countervailing

duty investigations of certain stainless steel cooking ware from Korea and Taiwan to correspond to the dates of the final determinations in the antidumping investigations of the same product pursuant to section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984 (Pub. L. 98–573). In addition, we are rescheduling the public hearings.

EFFECTIVE DATE: May 7, 1986.

FOR FURTHER INFORMATION CONTACT: Gary Taverman or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377–0161 or 377–2438.

SUPPLEMENTARY INFORMATION: .

Case Histories

On January 21, 1986, we received antidumping and countervailing duty petitions filed by the Fair Trade Committee of the Cookware Manufacturers Association on certain stainless steel cooking ware from Korea and Taiwan.

In compliance with the filing requirements of § 353.36 of our regulations (19 CFR 353.36), the antidumping petitions alleged that imports of certain stainless steel cooking ware from Korea and Taiwan 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 Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petitions contained sufficient grounds on which to initiate antidumping duty investigations, and on February 11, 1986, we initiated such investigations (51 FR 6018 and 51 FR 6019). The preliminary determinations in these antidumping investigations will be made on or before June 30, 1986.

In compliance with the filing requirements of §355.26 of our regulations (19 CFR 355.26), the countervailing duty petitions alleged that manufacturers, producers, or exporters in Korea and Taiwan of certain stainless steel cooking ware directly or indirectly receive benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a U.S. industry.

We found that the petitions contained sufficient grounds on which to initiate countervailing duty investigations, and on February 11, 1986, we initiated such investigations (51 FR 6019 and 51 FR 6020). On April 16, 1986, we issued preliminary negative determinations in the countervailing duty investigations on Korea (51 FR 15520) and on Taiwan (51 FR 15523).

On April 23, 1986, petitioner filed a request for extension of the deadline dates for the final determinations in the countervailing duty investigations to correspond with the dates of the final determinations in the antidumping investigations.

Section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984, provides that when a countervailing duty investigation is "initiated simultaneously with an (antidumping) investigation . . . which involves imports of the same class or kind of merchandise from the same or other countries, the administering authority, if requested by the petitioner, shall extend the date of the final determination (in the countervailing duty investigation) to the date of the final determination" in the antidumping investigation (19 U.S.C. 1671(a)(1). Pursuant to this provision, we are granting an extension of the deadline dates for the final determinations in the countervailing duty investigations of certain stainless steel cooking ware from Korea and Taiwan to September 15, 1986, the current deadline for the final determinations in the antidumping investigations.

In addition, due to the extension of the final determinations in the countervailing duty investigations, we are rescheduling the dates of the public hearings, originally set for May 29, 1986 (Taiwan), and June 4, 1986 (Korea). These hearings, which were requested by the petitioner will now be held at 10:00 a.m. on June 13, 1986 (Korea), and August 6, 1986 (Taiwan), at the U.S. Department of Commerce, Room 1413, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Individuals who wish to participate in the hearings must submit a request to the Deputy Assistant Secretary for Import Administration, Room B–099, at the above address within 10 days of the publication of this notice.

Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reason for attending; and (4) a list of the issues to be discussed. In addition, at least 10 copies of pre-hearing briefs must be submitted to the Deputy Assistant Secretary by June 6, 1986 (Korea), and July 30, 1986 (Taiwan). Oral presentations will be limited to issues raised in the briefs.

In accordance with 19 CFR 355.33(d) and 19 CFR 355.34, written views will be considered if received within 10 days after the hearing transcript is available.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

April 30, 1986.

[FR Doc. 86–10205 Filed 5–6–86; 8:45 am]

BILLING CODE 3510-DS-M

[A–429–101]

Unrefined Montan Wax From the German Democratic Republic; Final Results of Antidumping Duty Administrative Review and Revocation of Antidumping Duty Order

AGENCY: International Trade Administration, Import Administration Commerce.

ACTION: Notice of Final Results of Antidumping Duty Administrative Review and Revocation of Antidumping Duty Order.

SUMMARY: On February 21, 1986, the Department of Commerce published the preliminary results of its administrative review and intent to revoke the antidumping duty order on unrefined montan wax from the German Democratic Republic. The review covers the one known exporter of this merchandise to the United States and the period September 1, 1983 through April 30, 1984.

We gave interested parties an opportunity to submit comments on the preliminary results and intent to revoke. We received no comments. Based on our analysis, the final results of our review are the same as the preliminary results, and we revoke the antidumping duty order on unrefined montan wax from the German Democratic Republic.

FOR FURTHER INFORMATION CONTACT: Laurie A. Lucksinger or Robert J. Marenick, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377–1130/5255.

SUPPLEMENTARY INFORMATION:

Background

On February 21, 1986, the Department of Commerce ("the Department") published in the **Federal Register** (51 FR 6292) the preliminary results of its administrative review and intent to revoke the antidumping duty order on unrefined montan wax from the German Democratic Republic ("GDR") (46 FR 45177, September 10, 1981). The Department has now completed that administrative review.

Scope of the Review

Imports covered by the review are shipments of unrefined montan wax, which is a non-oxidized mineral extracted from lignite, not advanced beyond extraction or cleaning by solvent. This product is primarily used as a flow agent in one-time carbon ink formulas. It is also used for producing polishes, mold release agents and for casting, and is currently classifiable under item 494.2000 of the Tariff Schedules of the United States Annotated.

The review covers the one known exporter of unrefined montan wax from the GDR to the United States, VEB Braunkohlenwerk "Gustav Sobottka," and the period September 1, 1983 through April 30, 1984, the date of our tentative determination to revoke the antidumping duty order.

Final Results of the Review and Revocation

We invited interested parties to comment on the preliminary results and intent to revoke. We received no comments or requests for a hearing. Based on our analysis, the final results of our review are the same as those we presented in the preliminary results.

For the reasons set forth in the preliminary results we are satisfied that there is no likelihood of resumption of sales at less than fair value. Accordingly, we revoke the antidumping duty order on unrefined montan wax from the GDR. This revocation applies to all unliquidated entries of unrefined montan wax from the GDR entered, or withdrawn from warehouse, for consumption on or after April 30, 1984.

The administrative review, revocation, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act of 1930 (19 U.S.C. 1675 (a)(1), (c)) and §§ 353.53a and 353.54 of the Commerce Regulations (19 CFR 353.53a; 50 FR 32556, August 13, 1985; 353.54).

Dated: April 30, 1986.

Gilbert B. Kaplan,

Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-10209 Filed 5-6-86; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Deep Seabed Mining—Proposed Revision of Exploration License

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Notice of receipt of application by Ocean Management, Inc., to revise exploration plan incorporated into exploration license issued August 29, 1984 and request for comments.

SUMMARY: On November 19, 1985, Ocean Management, Inc. (OMI), c/o INCO Limited, One New York Plaza, New York, New York 10004 submitted to the National Oceanic and Atmospheric Administration (NOAA) a proposal to change the exploration plan incorporated into the deep seabed mining exploration license issued to OMI by NOAA on August 29, 1984, pursuant to the Deep Seabed Hard Mineral Resources Act (DSHMRA) and 15 CFR Part 970. The Ocean Minerals and Energy Division of the Office of Ocean and Coastal Resources Management conducted a preliminary review of the OMI request to determine the appropriate procedures for processing this license modification. In a letter of January 9, 1986, OMI was informed of NOAA's preliminary determination to process the change as a revision to the license in accordance with § 970.513 of the NOAA regulations. Supplemental information was also requested and was submitted on March 27 and April 3. Following review of the supplemented application, NOAA has determined that this proposal constitutes an application for revision of the license under 15 CFR 970.513 and is commencing appropriate public review procedures prescribed in 15 CFR 970.514(b).

In essence, OMI proposes two principal changes in the exploration plan. First a revised stategy would adopt a two-stage approach wherein "prime areas" identified using available data, are selected and intensively explored. Subsequently exploration of non-prime areas would be undertaken to establish a resource base adequate for a commercial minesite and upon which an application for a commercial recovery permit could be based. The goal of the revised exploration program would be to complete, within the license term, such exploration as is needed to define a logical mining unit, as required by the DSHMRA. OMI proposes to postpone to the subsequent commercial permit phase, those aspects of detailed exploration of the non-prime areas which are not essential to OMI's determination of the feasibility of commercial mining.

Secondly, OMI proposes to reduce its level of projected expenditures during the license term from $21 million (1981 dollars) to $4.6–$6.6 million (1981 dollars). The revised estimates of projected expenditures take into account the resource knowledge possessed by OMI acquired during many years of exploration prior to the DSHMRA, augmented by information obtained as a result of the conflict-resolution agreement between international consortia, as well as the use of state of the art technology already developed. According to OMI the increased efficiency of this technology, as well as the acquired data, will reduce the amount of at-sea exploration needed. Therefore, OMI is proposing to reduce projected ship time from 310 days to a maximum of 180 days. No at-sea testing of new survey systems is proposed. No change is proposed in the objective of filing for a deep seabed mining commercial recovery permit within the 10 year license period.

Subject to 15 CFR 970.902, which excludes confidential information from public disclosure, interested persons will be permitted to examine the application for revision and to provide comments by July 7, 1986.

These documents may be examined in Suite 704, 1825 Connecticut Avenue NW., Washington, DC

FOR FURTHER INFORMATION CONTACT: Ms. Nancy Carter or John W. Padan, Ocean Minerals and Energy Division, Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration, 2001 Wisconsin Avenue NW., Washington, DC 20235.

Dated: May 1, 1986.

James P. Blizzard,

Acting Director, Office of Ocean and Coastal Resource Management.

[FR Doc. 86-10146 Filed 5-6-86; 8:45 am]

BILLING CODE 3510-12-M

Issuance of General Permit

A general permit was issued to the China National Marine Fisheries Corporation, Anchorage, Alaska, to take marine mammals incidental to commercial fishing operations under Category 1: Towed or Dragged Gear, pursuant to 50 CFR 216.24.

The general permit allows the taking of not more than 24 cetaceans and 70 pinnipeds annually by certificate holders operating under this permit within the U.S. fishery conservation zone of the North Pacific Ocean. The permit is valid until December 31, 1986.

This general permit is available for public review in the Office of the Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, NW., Washington, DC.

Dated: May 2, 1986.

Samuel W. McKeen,

Chief, Management & Budget Staff, National Marine Fisheries Service.

[FR Doc. 86-10189 Filed 5-6-86; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board Task Force on Software: Meeting

ACTION: Notice of Advisory Committee Meeting.

SUMMARY: The Defense Science Board Task Force on Software will meet in open session on 27 May 1986 at the Software Engineering Institute, Pittsburgh, Pa.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense. The May meeting will consist of discussion by the Task Force members on various software issues.

Persons interested in attending should contact Major Susan Swift, Task Force Executive Secretary, approximately one week prior to the scheduled meeting times. Space is limited and will be awarded on a first come first served basis. Telephone (202) 695-7181.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

May 2, 1986.

[FR Doc. 86-9772 Filed 5-6-86; 8:45 am]

BILLING CODE 3810-01-M

Per Diem, Travel and Transportation Allowance Committee

AGENCY: Per Diem, Travel and Transportation Allowance Committee.

ACTION: Publication of Changes in Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 132. This bulletin lists changes in per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico and possessions of the United States. Bulletin Number 132 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

EFFECTIVE DATE: May 1, 1986.

SUPPLEMENTARY INFORMATION: This document gives notice of changes in per diem rates prescribed by the Per Diem, Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. Distribution of Civilian Per Diem Bulletins by mail was discontinued effective June 1, 1979. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of change in per diem rates to agencies and establishments outside the Department of Defense.

The text of the Bulletin follows:

CIVILIAN PERSONNEL PER DIEM BULLETIN NUMBER 132

TO THE HEADS OF THE EXECUTIVE DEPARTMENTS AND ESTABLISHMENTS

SUBJECT: TABLE OF MAXIMUM PER DIEM RATES IN LIEU OF SUBSISTENCE FOR UNITED STATES GOVERNMENT CIVILIAN OFFICERS AND EMPLOYEES FOR OFFICIAL TRAVEL IN ALASKA, HAWAII, THE COMMONWEALTH OF PUERTO RICO AND POSSESSIONS OF THE UNITED STATES

1. This bulletin is issued in accordance with Memorandum for Heads of Executive Departments and Establishments from the Deputy Secretary of Defense dated 17 August 1966, subject: Executive Order 11294, August 4, 1966, "Delegating Certain Authority of the President to Establish Maximum Per Diem Rates for Government Civilian Personnel in Travel Status; in which this Committee is directed to exercise the authority of the President (5 U.S.C. 5702 (a)(2)) delegated to the Secretary of Defense for Alaska, Hawaii, the Commonwealth of Puerto Rice, the Canal Zone, and possessions of the United States. When appropriate, and in accordance with regulations issued by competent authority, lesser rates may be prescribed.

2. The maximum per diem rates shown in the following table are continued from the preceding Bulletin Number 131 except for the cases identified by asterisks which rates are effective on the date of this Bulletin.

3. Each Department or establishment subject to these rates shall take appropriate action to disseminate the contents of this Bulletin to the appropriate headquarters and field agencies affected thereby.

4. The maximum per diem rates referred to in this Bulletin are:

Locality	Maximum rate
Alaska:	
Adak[1]	$19
Anaktuvuk Pass	140
Anchorage	122
Atqasuk	215
Barrow	144
Bethel	124
*Cold Bay	120
Coldfoot	122
College	105
Cordova	113
Deadhorse	113
Dillingham	114
Dutch Harbor—Unalaska	105
Eielson AFB	105
Elmendorf	122
Fairbanks	105
Ft. Richardson	122
Ft. Wainwright	105
Juneau	109
Kenai	119
Ketchikan	113
Kodiak	110
Kotzebue[3]	126
Murphy Dome[3]	105
Noatak	126
Nome	136
Noorvik	126
Petersburg	113
Point Hope	160
Point Lay	179
Prudhoe Bay	113
Sand Point	103
Shemya AFB[3]	30
Shungnak	126
Sitka-Mt. Edgecombe	113
Skagway	113
Spruce Cape	110
St. Mary's	100
Tanana	136
Valdez	136
Wainwright	165
Wrangell	113
Yakutat	100
All Other Localities[3]	91
American Samoa	81
*Guam M.I.	93
*Hawaii:	
Hawaii, Island of:	
Hilo	59
Other	84
Oahu	98
All Other Islands	84
Johnston Atoll[2]	23
Midway Islands[1]	13
Puerto Rico:	
Bayamon:	
12-16—5-15	132
5-16—12-15	105
Carolina:	
12-16—5-15	132
5-16—12-15	105
Fajardo (Including Luquillo):	
12-16—5-15	132
5-16—12-15	105
Ft. Buchanan (Incl GSA Service Center, Guaynabo):	
12-16—5-15	132
5-16—12-15	105
Ponce (Incl. Ft. Allen NCS)	99
Roosevelt Roads:	
12-16—5-15	132
5-16—12-15	105
Sabana Seca:	
12-16—5-15	132
5-16—12-15	105
San Juan (Including San Juan Coast Guard Units):	
12-16—5-15	132
5-16—12-15	105
All Other Localities	111
Virgin Islands of U.S.:	
12-1—4-30	126
5-1—11-30	112
Wake Island[2]	20
All Other Localities	20

[1] Commercial facilities are not available. The per diem rate covers charges for meals in available facilities plus an additional allowance for incidental expenses and will be increased by the amount paid for Government quarters by the traveler. For Adak, Alaska—when Government quarters are not utilized, and quarters are obtained at the Simone

Construction, Inc. camp, a daily travel per diem allowance of $71.50 is prescribed to cover the cost of lodging, meals and incidental expenses at this facility.

[2] Commercial facilities are not available. Only Government-owned and contractor operated quarters and mess are available at this locality. This per diem rate is the amount necessary to defray the cost of lodging, meals and incidental expenses.

[3] On any day when US Government or contractor quarters and US Government or contractor messing facilities are used, a per diem rate of $13 is prescribed to cover meals and incidental expenses at Shemya AFB and the following Air Force Stations: Cape Lisburne, Cape Newenham, Cape Romanzof, Clear, Cold Bay, Fort Yukon, Galena, Indian Mountain, King Salmon, Kotzebue, Murphy Dome, Sparrevohn, Tatalina and Tin City. This rate will be increased by the amount paid for US Government or contractor quarters and by $4 for each meal procured at a commercial facility. The rates of per diem prescribed herein apply from 0001 on the day after arrival through 2400 on the day prior to the day of departure.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

May 2, 1986.

[FR Doc. 86-10213 Filed 5-6-86; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

Armed Forces Institute of Pathology Scientific Advisory Board; Meeting

In order to comply with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given of the meeting of the Armed Forces Institute of Pathology's Scientific Advisory Board, June 5-6, 1986, 0830 hours in the Director's Conference Room, Armed Forces Institute of Pathology, Washington, DC 20306-6000. This meeting will be open to the public.

The proposed agenda will include professional discussion of the mission of the Armed Forces Institute of Pathology relating to consultation, education and research. The Executive Secretary from whom substantive program information may be obtained is Colonel William R. Tuten, III, Executive Officer, Armed Forces Institute of Pathology, Washington, DC 20306-6000, telephone 202-576-2900.

For the director.

William R. Tuten, III,

Colonel, MS, USA Executive Officer.

[FR Doc. 86-10171 Filed 5-6-86; 8:45 am]

BILLING CODE 3710-08-M

Defense Nuclear Agency (DNA)

Scientific Advisory Group on Effects (SAGE); Closed Meeting

Scientific Advisory Group on Effects (SAGE) will meet in closed session June 10 to June 12, 1986 at the Lawrence Livermore National Laboratories in Livermore, California. AGENDA: June 10 to June 12 (0800-1700): Presentations, Discussions and Executive Sessions on Issues Related to DNA Technology Program supporting the Hard Target Kill. The presentations and discussions in the above cited agenda will focus on current and planned activities of the Defense Nuclear Agency (DNA) supporting the Strategic Defense Initiatives Organization. Executive sessions will be held for the primary purpose of advising the Director, DNA, as to the adequacy of ongoing and planned activities. All planned presentations, discussions, and executive sessions may include classified defense information; therefore, under the provisions of sections 552b(c)(1) and (3), Title 5, U.S.C., this meeting is closed to the public. Any additional information concerning the meeting may be obtained from: Lt Col Gary C. Gibson, USAF, Scientific Secretary, SAGE, Headquarters, Defense Nuclear Agency, ATTN: DDST, Washington, DC 20305-1000.

Patricia H. Means,

OSD Federal Register Liaison Officer, Department of Defense.

May 2, 1986.

[FR Doc. 86-10214 Filed 5-6-86; 8:45 am]

BILLING CODE 3810-01-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1980.

DATES: Interested persons are invited to submit comments on or before June 6,1986.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Resources Management Service publishes this notice containing proposed information collection requests prior to the submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title: (3) Agency form number (if any); (4) Frequency of the collection; (5) The affected public; (6) Reporting burden; and/or (7) Recordkeeping burden; and (8) Abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: May 2, 1986.

George P. Sotos,

Director, Information Resources Management Service.

Office of Elementary and Secondary Education

Type of Review: Extension
Title: Application for Civil Rights Technical Assistance and Training State Education Agency Program
Agency Form Number: ED 296
Frequency: Annually
Affected Public: State or local governments
Reporting Burden:
Responses: 120
Burden Hours: 2400
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: The application is used by State education agencies to apply for assistance under Title IV of the Civil Rights Act of 1964. The Department uses this information to evaluate the proposed projects and make awards in accordance with program regulations.

Office of Elementary and Secondary Education

Type of Review: Extension
Title: Application for Civil Rights Technical Assistance and Training Desegregation Assistance Center Program
Agency Form Number: A10-7P
Frequency: Annually

Affected Public: Non-profit institutions
Reporting Burden:
Responses: 20
Burden Hours: 2000
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: The application is used by non-profit institutions to apply for desegregation assistance center awards under Title IV of the Civil Rights Act of 1964. The Department needs this information to evaluate proposed projects and make awards in accordance with program regulations.

Office of Planning, Budget and Evaluation

Type of Review: New
Title: Survey of Parents of Bilingual Students
Agency Form Number: P75–6P
Frequency: One time only
Affected Public: Individuals and households
Reporting Burden:
Responses: 304,564
Burden Hours: .01
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: The purpose of this study is to survey 4000 Asian and Hispanic parents to determine their educational preferences for their children. The information will be used by the Department of Education to develop alternative guidelines and policies.

Office of Postsecondary Education

Type of Review: New
Title: Application for Funds for the Improvement of Postsecondary Education (FIPSE) Lectures Program
Agency Form Number: ED 0005
Frequency: On occasion
Affected Public: State or local governments; Non-profit institutions; Small businesses or organizations.
Reporting Burden:
Responses: 100
Burden Hours: 800
Recordkeeping Burden:
Recordkeepers: NA
Burden Hours: NA

Abstract: The Fund for the Improvement of Postsecondary Education (FIPSE) Lectures Program supports presentations about the improvement of postsecondary education at conferences and meetings.

Office of Postsecondary Education

Type of Review: Extension
Title: Loan Transaction Statement
Agency Form Number: ED 1199
Frequency: On occasion
Affected Public: Businesses or other for profit
Reporting Burden:
Responses: 5
Burden Hours: 1
Recordkeeping Burden:
Recordkeepers: 20,000
Burden Hours: 5,000

Abstract: The ED Form 1199 is used by the U.S. Department of Education, Guarenteed Student Loan Branch to bill lenders for insurance premiums. It is also used by lenders to report changes in the status of existing loans and to report loans paid in full.

Office of Postsecondary Education

Type of Review: Extension
Title: Application for Grants Under the Law School Clinical Experience Program
Agency Form Number: ED 595
Frequency: Annually
Affected Public: Non-profit institutions
Reporting Burden:
Responses: 100
Burden Hours: 2,500
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0

Abstract: This form is used by institutions of higher education applying for grants under the Law School Clinical Experience Program.

[FR Doc. 86–10203 Filed 5–6–86; 8:45 am]
BILLING CODE 4000–01–M

Secretary's Discretionary Fund; Critical Foreign Languages Program

AGENCY: Department Of Education.

ACTION: Application notice for new awards under the Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Languages for fiscal year 1986.

Programmatic And Fiscal Information

The Secretary of Education, under the Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Language (Critical Foreign Language Program), announces a grant competition for fiscal year 1986 and invites applications from institutions of higher education for projects designed to improve and expand instruction in critical foreign languages.

The Secretary invites a broad range of approaches designed to improve and expand foreign language instruction. For fiscal year 1986, the Secretary invites applications for projects in the following foreign languages: Arabic, Cambodian, Chinese, French, German, Haitian Creole, Italian, Korean, Japanese, Polish, Portuguese, Russian, Spanish, and Vietnamese. However, these language categories (chosen from the final List of Critical Foreign Languages published in the **Federal Register** on August 2, 1985) and the types of projects and activities suggested below are invitational only and will receive no competitive advantage.

While only public and private institutions of higher education are eligible to apply for assistance under this program, the Secretary strongly believes that the greatest and most urgent need to improve and expand foreign language instruction is at the elementary and secondary school levels. Therefore, the Secretary especially encourages institutions of higher education to propose activities that will benefit directly both students and teachers at the elementary and secondary school levels.

Further, the Secretary is interested in programs that demonstrate the capacity not only to serve an individual school, institution, or school district, but that can be adapted to statewide and regional interests and needs.

The Secretary is particularly interested in projects that will:

- Provide opportunities to upgrade and strengthen the knowledge and proficiency of foreign language teachers currently in the classroom;
- Provide opportunities to recruit and train individuals who are proficient in a foreign language, but who lack pedagogical preparation in that language;
- Increase the opportunities for foreign language instruction at the elementary school level;
- Provide opportunities to extend instruction in foreign languages and culture to historically underserved and underrepresented populations;
- Strengthen existing foreign language programs to improve and increase language proficiency; or
- Develop new instructional approaches or broaden existing approaches to increase access to and effectiveness of foreign language study and instruction.

Activities

The following examples are offered to illustrate the types of activities an institution could propose and that the Secretary is interested in supporting.

Project activities may include, but are not limited to:

- The establishment of collaborative efforts between institutions of higher education and State and local educational agencies to develop both short and long-term teacher training programs.

• The development of programs to recruit and prepare individuals for teaching who are proficient in a foreign language, but who lack pedagogical training, through such means as exchange programs or accelerated training programs.

• The development of intensive foreign language summer programs for exceptional secondary school students and teachers.

• The development of programs that provide outstanding foreign language teachers with research opportunities, sabbaticals, or advanced training in their second language.

• The review of textbooks and other foreign language instructional materials to identify specific weaknesses such as inadequate scholarship, poor writing, or lack of challenging material.

• The establishment of collaborative efforts between individual schools, State and local educational agencies, and institutions of higher education to develop new approaches to upgrading foreign language instructional methods and materials.

• The establishment of joint efforts between State and local educational agencies, communities, and institutions of higher education to develop innovative approaches to increase student interest in foreign language study.

• The development of guidelines or criteria to review and establish the curriculum and course contant in foreign languages.

• The establishment of collaborative efforts between local school districts and institutions of higher education to develop approaches for introducing foreign language instruction to the elementary school curriculum.

Approximately $1,600,000 is available in fiscal year 1986 for awards under the Critical Foreign Languages Program. The Secretary urges applicants to limit the amount of Federal assistance requested, since resources available under this competition are limited. The Secretary anticipates that no award will exceed $125,000.

Because of the limited available resources, the Secretary encourages applicants to propose projects that would use the funds awarded under this competition to supplement other sources of funding and that will have the potential for support from other sources upon completion of the grant period. These estimates of the approximate funds available and of the maximum amount of an award, do not bind the U.S. Department of Education to a specific number of grants or to the amount of any grant, unless that amount is otherwise specified by statute or regulations.

Projects supported under this program will be for a period of up to 12 months.

Selection Criteria

The program regulations at § 755.30(b) authorize the Secretary to distribute an additional 15 points among the criteria described in the regulations at § 755.32 to bring the total to a maximum of 100 points. For the purposes of this competition, the Secretary will distribute the additional points as follows:

Improvement of expansion of instruction in critical foreign languages. Ten (10) additional points will be added for a possible total of 30 points.

Applicant's commitment and capacity. Five (5) additional points will be added for a possible total of 20 points.

Closing Date for Transmittal of Applications

Applications for new awards must be mailed or hand-delivered on or before July 1, 1986.

Applications sent by mail must be addressed to the U.S. Department of Education, Application Control Center, Attention: CFDA No. 84.168F, 400 Maryland Avenue SW., Washington, DC. 20202.

Each late applicant will be notified that its application will not be considered.

Applications that are hand-delivered must be taken to the U.S. Department of Education, Application Control Center, Room 3633, Regional Office Building 3, 7th and D Streets SW., Washington, DC.

The Application Control Center will accept hand-delivered applications between 8:00 a.m. and 4:30 p.m. (Washington, DC time) daily, except Saturdays, Sundays, and Federal holidays. Applications that are hand delivered will not be accepted by the Application Control Center after 4:30 p.m. on he closing date.

Applicable regulations

Regulations applicable to this program include the following:

(a) The regulations governing the Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Languages in 34 CFR Part 755.

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

(c) The list of Critical Foreign Languages published on August 2, 1985 (50 FR 31412).

Application Forms

Application forms and program information packages are expected to be available by May 16, 1986. They may be obtained by writing to: Secretary's Discretionary Fund, (Attn: Critical Foreign Languages Program), U.S. Department of Education, 1200 19th Street NW., Room 722, Washington, DC 20208.

Further Information

For further information contact Patricia L. Alexander, Secretary's Discretionary Fund, U.S. Department of Education, 1200 19th Street NW., Room 722, Washington, DC 20208. Telephone: (202) 254–8227.

Program Authority

20 U.S.C. 3972.

(Catalog of Federal Domestic Assistance Number 84.168F, Secretary's Discretionary Program for Mathematics, Science, Computer Learning, and Critical Foreign Languages)

Dated: May 2, 1986.

William J. Bennett,

Secretary of Education.

[FR Doc. 86–10200 Filed 5–6–86; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 86–28–NG]

NHP Energy, Inc.; Application To Import Natural Gas From Canada

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Application for Blanket Authorization to Import Natural Gas from Canada for Short-Term and Spot Sales.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice of receipt on April 18, 1986, of an application filed by NHP Energy, Inc. (NHP), a Minnesota corporation, for a blanket authorization to import from Canada up to 50 MMcf of natural gas per day and a maximum of 3 Bcf over a two-year period beginning on the date of first delivery. NHP anticipates that it will contract with a number of Canadian suppliers and marketers for available supplies. Under the proposal, NHP will import natural gas for its own account as well as for the accounts of Canadian suppliers and U.S. purchasers. NHP proposes to file quarterly reports to the ERA showing the specific terms of each import and sale, including the price and volumes.

NHP also requests expedited treatment of its application given the fact that the authorization requested is identical to existing import authorizations and the granting of its request will serve the public interest by providing competitively priced imported gas supplies to U.S. markets.

The application was filed with the ERA pursuant to section 3 of the Natural Gas Act and DOE Delegation Order No. 0204–111. Protests, motions to intervene, or notices of intervention, and written comments are invited.

DATE: Protests, motions to intervene, or notices of intervention, as applicable, and written comments are to be filed no later than June 6, 1986.

FOR FURTHER INFORMATION CONTACT:

John Glynn, Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Forrestal Building, Room GA–076, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–9482

Diane Stubbs, Office of General Counsel, Natural Gas and Mineral Leasing, U.S. Department of Energy, Forrestal Building, Room 6E–042, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–6667

SUPPLEMENTARY INFORMATION: The decision on this application will be made consistent with the DOE's gas import policy guidelines, under which competitiveness of an import arrangement in the markets served is the primary consideration in determining whether it is in the public interest (49 FR 6684, February 22, 1984). Parties that may oppose this application should comment in their responses on the issue of competitiveness as set forth in the policy guidelines. The applicant asserts that this import arrangement is competitive.

Parties opposing the arrangement bear the burden of overcoming this assertion.

In making its request for expedited treatment of its application to import natural gas from Canada, NHP states that prompt ERA action will serve the public interest by allowing competitively priced gas supplies to be imported into U.S. markets for the benefit of U.S. consumers. NHP further states that its requested authorization duplicates existing authorizations granted by the ERA; consequently, its application should be reviewed on an expedited basis, including the dispensing of any procedure providing for additional comments. The ERA has determined that the reasons cited by NHP in requesting expedited treatment of its application do not justify limiting the opportunity for parties to request additional procedures.

Public Comment Procedures

In response to this notice, any person may file a protest, motion to intervene or notice of intervention, as applicable, and written comments. Any person wishing to become a party to the proceeding and to have the written comments considered as the basis for any decision on the application must, however, file a motion to intervene or notice of intervention, as applicable. The filing of a protest with respect to this application will not serve to make the protestant a party to the proceeding, although protests and comments received from persons who are not parties will be considered in determining the appropriate procedural action to be taken on the application. All protests, motions to intervene, notices of intervention, and written comments must meet the requirements that are specified by the regulations in 10 CFR Part 590. They should be filed with the Natural Gas Division, Office of Fuels Programs, Economic Regulatory Administration, Room GA–076, RG–23, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252–9478. They must be filed no later than 4:30 p.m. June 6, 1986.

The Administrator intends to develop a decisional record on the application through responses to this notice by parties, including the parties' written comments and replies thereto. Additional procedures will be used as necessary to achieve a complete understanding of the facts and issues. A party seeking intervention may request that additional procedures be provided, such as additional written comments, an oral presentation, a conference, or a trail-type hearing. Any request to file additional written comments should explain why they are necessary. Any request for an oral presentation should identify the substantial question of fact, law, or policy at issue, show that it is material and relevant to a decision in the proceeding, and demonstrate why an oral presentation is needed. Any request for a conference should demonstrate why the conference would materially advance the proceeding. Any request for a trial-type hearing must show that there are factual issues genuinely in dispute that are relevant and material to a decision and that a trial-type hearing is necessary for a full and true disclosure of the facts.

If an additional procedure is scheduled, the ERA will provide notice to all parties. If no party requests additional procedures, a final opinion and order may be issued based on the official record, including the application and responses filed by parties pursuant to this notice, in accordance with 10 CFR 590.316.

A copy of NHP's application is available for inspection and copying in the Natural Gas Divison Docket Room, GA–076, (202) 252–9478, at the above address. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Issued in Washington, DC, April 29, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–10181 Filed 5–6–86; 8:45 am]

BILLING CODE 6450–01–M

[ERA Docket No. 86–14–NG]

Yankee International Co.; Order Approving an Amendment to an Authorization To Export Natural Gas to Canada on a Short-Term Basis

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of Order Approving an Amendment to an Authorization To Export Natural Gas to Canada on a Short-Term Basis.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order approving an amendment to an existing authorization of Yankee International Company (Yankee) to export natural gas to Canada on a short-term basis. The order issued in ERA Docket No. 86–14–NG extendes the term of Yankee's existing export authorization from April 30, 1986, to February 4, 1988, and increases the maximum export levels to 85 MMcf per day and up to 10 Bcf for the duration of the term.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA–076, Forrestal Building, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252–9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Issued in Washington, DC, April 30, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86–10180 Filed 5–6–86; 8:45 am]

BILLING CODE 6450–01–M

Federal Energy Regulatory Commission

[Docket No. RP83-34-006]

Great Lakes Gas Transmission Co.; Tariff Filing To Implement Court Mandate

April 30, 1986.

Take notice that Great Lakes Gas Transmission Company ("Great Lakes") on April 22, 1986 tendered for filing Ninth Revised Sheet No. 151, Original Volume 2 of Great Lakes' FERC Gas Tariff to be effective January 1, 1984.

Great Lakes states that on December 16, 1983, it filed certain tariff sheets with the Commission in compliance with a "Stipulation and Agreement in Settlement of Rate Proceeding" in Docket No. RP83-34 and in compliance with Commission Opinions 179 and 179-A. Such tariff sheets implemented on a prospective basis, effective January 1, 1984, rates based upon the new ratemaking methodology established by Opinions 179 and 179-A. However, on September 4, 1984 the Commission reversed its acceptance of and rejected Ninth Revised Sheet No. 151, Original Volume No. 2 relating to Great Lakes' T-6 Rate Schedule. On January 29, 1986, the United States Court of Appeals for the District of Columbia Circuit issued its judgment in *Great Lakes Gas Transmission Company* v. *FERC*, No. 85-1035, which reversed the Commission's September 4, 1984 order and remanded the case to the Commission for proceedings not inconsistent with the Court's opinion. On March 20, 1986, the Court forwarded to the General Counsel of the Commission a certified copy of the Court Judgment with Memorandum in lieu of formal mandate.

By its filing Great Lakes seeks to reinstate Ninth Revised Sheet No. 151, Original Volume 2 of its FERC Gas Tariff effective January 1, 1984 consistent with the Court Judgment.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with Rules 214 and 211 of the Commission's rules of practice and procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before May 8, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-10157 Filed 5-6-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL86-26-001]

San Diego Gas and Electric Co. v. Alamito Co.; Amended Complaint and Motion for Summary Judgment of San Diego Gas and Electric Co.

May 1, 1986.

Take notice that on April 23, 1986, San Diego Gas and Electric Company (SDG&E) submitted for filing an amended complaint and motion for summary judgment pursuant to sections 206 and 306 of the Federal Power Act ("Act"), 16 U.S.C. 824e and 825e, and Rules 206, 212, 215, and 217 of the rules of practice and procedure of the Federal Energy Regulatory Commission ("Commission"), 18 CFR 385.206, 385.212, 385.217. This amended complaint and motion are submitted as the result of the answer filed by Alamito Company ("Alamito") to the original complaint and motion for summary judgment filed herein on February 28, 1986. Alamito's answer consists of a claim that SDG&E's original complaint and motion for summary judgment are moot.

According to the Commission's rules of practice and procedure, the Commission would be authorized to take Alamito's failure to respond on the merits as a concession of each material point raised in SDG&E's motion, and accordingly grant summary judgment. However, because Alamito has raised a claim of mootness, which claim the Commission may credit, SDG&E amends its complaint to encompass specifically the Osceola Energy, Inc. ("Osceola") merger proposal that may now take place, or any other like transaction, that is based upon the substitution of debt for equity as the capital used to finance rate base assets used to make sales to SDG&E.

SDG&E's complaint is not concerned with the identity of the owners of Alamito, but with the financing of the assets used to make sales to SDG&E. Under the proposed management leveraged buyout, either as originally proposed or as later amended during the bidding for Alamito, and under the apparent winning proposal reflected in an Agreement of Merger between Osceola, Alamito Holdings, Inc. ("Subco"), and Alamito, debt will be substituted for equity and Alamito's assets will be financed with substantially more leverage, and therefore at lower cost, than is reflected in the rates that SDG&E is required to pay under Alamito Rate Schedule No. 1. Accordingly, the Commission should grant immediate rate relief upon the consummation of the merger.

Any person desiring to be heard or to protest the application should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's rules of practice and procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before June 2, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this application are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-10158 Filed 5-6-86; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. EL86-34-000]

San Diego Gas and Electric Co. v. Alamito Co., Osceola Energy, Inc., and Alamito Holdings, Inc.; Complaint of San Diego Gas and Electric Co.

May 1, 1986.

Take notice that on April 23, 1986, San Diego Gas and Electric Company tendered for filing a complaint pursuant to sections 204, 306, 309, and 314 of the Federal Power Act ("FPA"), 16 U.S.C. 824c, 824e, 825h, and 825m, and Rules 206 of the Commission's rules of practice and procedure. The complaint relates to an existing agreement to merger between Osceola Energy, Inc. ("Osceola"), Alamito Holdings, Inc. ("Subco"), and Alamito Company ("Alamito"). The agreement of merger, to which SDG&E has no opposition, could result in an increase in capital costs and other expenses charged to SDG&E under Alamito Rate Schedule No. 1, unless the Commission grants the relief requested in the instant complaint, namely that any authority granted to Osceola pursuant to Section 204 of the FPA relating to its financing of the proposed merger be conditioned upon the collection of revenues from SDG&E subject to refund from and after closing of the merger agreement, pending a Commission decision on whether and how the increased leverage used to finance Alamito's assets should be reflected in Alamito's Rate Schedule No.

1, and whether other costs associated with this transaction may properly be charged to SDG&E under Alamito Rate Schedule No. 1.

Specifically, SDG&E respectfully requests that the Commission, if it approves the transaction, grant immediate and simultaneous rate relief, and authorize the transaction on condition that any collections by Alamito or Osceola after the consummation of the merger be subject to refund, with interest, as prescribed in the Commission's regulations pending hearings and decision to consider the cost recovery issues in this complaint.

Any person desiring to be heard or to protest said filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's rules of practice and procedure (18 CFR 385.214, 385.211). All such motions or protests should be filed on or before June 2, 1986. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-10159 Filed 5-6-86; 8:45 am]

BILLING CODE 6717-01-M

Issuance of Proposed Decision and Order; Office of Hearings and Appeals Week of April 14, Through April 18, 1986

During the week of April 14 through April 18, 1986, the proposed decision and order summarized below was issued by the Office of Hearings and Appeals of the Department of Energy with regard to an application for exception.

Under the procedural regulations that apply to exception proceedings (10 CFR Part 205, Subpart D), any person who will be aggrieved by the issuance of a proposed decision and order in final form may file a written notice of objection within ten days of service. For purposes of the procedural regulations, the date of service of notice is deemed to be the date of publication of this Notice or the date an aggrieved person receives actual notice, whichever occurs first.

The procedural regulations provide that an aggrieved party who fails to file a Notice of Objection within the time period specified in the regulations will be deemed to consent to the issuance of the proposed decision and order in final form. An aggrieved party who wishes to contest a determination made in a proposed decision and order must also file a detailed statement of objections within 30 days of the date of service of the proposed decision and order. In the statement of objections, the aggrieved party must specify each issue of fact or law that it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of this proposed decision and order are available in the Public Reference Room of the Office of Hearings and Appeals, Room 1E-234, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., except federal holidays.

George B. Breznay,

Director, Office of Hearings and Appeals.

April 28, 1986.

Warrior Asphalt Company of Alabama, Inc., Cities Service Co., Washington, D.C., Tulsa, OK; BYX-0197, HER-0052, Crude Oil

On April 15, 1981, the Warrior Asphalt Company of Alabama, Inc. (Warrior) submitted financial and operating data to the Office of Hearings and Appeals (OHA) for a review of the *Delta/Beacon* entitlements exception relief that the firm had received for the period April 1, 1980 through January 31, 1981. On March 14, 1983, the Cities Service Company (Cities) filed an Application for Modification in which it stated that Warrior's financial results for the firm's 1980 fiscal year should be adjusted to exclude an expense item which reflected the monies paid by Warrior to the DOE in settlement of various alleged violations. According to Cities, by including the settlement payment as an expense, Warrior had artificially increased its apparent need for *Delta/Beacon* entitlements relief by the same amount, and thus had transferred the cost of the settlement agreement to other entitlements program participants. On April 18, 1986, the OHA issued a Proposed Decision and Order (PDO) consolidating the two proceedings. With regard to Warrior's partial year-end review, the OHA determined (1) that the review period of Warrior's partial fiscal year-end review be limited to the period from April 1, 1980 through December 31, 1980, and (2) that Warrior received $192,394 of excessive entitlements relief during that period. In response to the Cities Service submission, the OHA determined that Cities claim was correct and that Warrior had improperly reduced its 1980 fiscal year profitability—and increased its apparent need for entitlements exception relief—by including as an expense item monies paid to the DOE in connection with a consent order. As Cities claimed, Warrior had improperly burdened other entitlements program participants with the cost of the settlement agreement and Warrior itself bore *no* cost. As a result, the DOE proposed that Warrior had an additional dispense obligation of $407,224 and thus a total final net dispense obligation of $599,618. The DOE noted, however, that in accordance with the current policy of the DOE, 50 Fed. Reg. 1919 (1985), Warrior's additional dispense obligation would not be effectuated.

[FR Doc. 86-10178 Filed 5-6-86; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[OPTS-51619; FRL-3006-1]

Certain Chemicals Premanufacture Notices

Correction

In FR Doc. 86-8835, beginning on page 15681, in the issue of Friday, April 25, 1986, make the following corrections:

1. On page 15682, second column, under "P86-846", thirteenth line, "up to hrs" should read "up to 6 hrs."

2. On the same page, under "P86-848", first line, "Confidential" was misspelled and on the second line, "Pol" should read "Poly".

3. On page 15683, third column, under "P86-866", fifth line, "41000" should read "4,000".

4. On page 15684, second column, under "P86-872", sixth line, "5" should read "2".

BILLING CODE 1505-01-M

[OPP-30263A; FRL-3011-2]

ICI Americas, Inc.; Approval of a Pesticide Product Registration

AGENCY: Enviromental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces Agency approval of an application submitted by ICI Americas, Inc. to register the pesticide product Demon™ WP containing an active ingredient involving a changed use pattern pursuant to the provision of section 3(c)(5) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended. This notice also corrects an error in the notice of filing.

FOR FURTHER INFORMATION CONTACT:

By mail: George LaRocca, Product Manager (PM) 15, Registration Division (TS-767C), Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460

Office location and telephone number: Rm. 204, TS-767C, Environmental Protection Agency, 1921 Jefferson

Davis Hwy, Arlington, VA 22202, (703–557–2400)

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of February 12, 1986 (51 FR 5247), which announced that ICI Americas, Inc., Agricultural Chemicals Div., Wilmington, DE 19897, had submitted an application to register the pesticide product Demon™ WP containing the active ingredient cypermethrin (±)alpha-cyano-(3-phenoxyphenyl) methyl (±)-*cis, trans*-3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate at 40.0 percent; involving a changed use pattern of the product.

In the notice the Agency announced receipt of an application to conditionally register a pesticide product involving a changed use pattern. The notice should have stated that ICI Americas, Inc., had submitted an application to unconditionally register the pesticide product "Demon™ WP" containing the active ingredient cypermethrin. This notice corrects that error.

The application was approved on March 20, 1986 for Demon™ WP, for indoor non-agricultural use. The product was assigned EPA Registration No. 10182–71.

In accordance with section 3(c)(2) of FIFRA, a copy of the approved label and the list of data references used to support registration are available for public inspection in the office of the Product Manager. The data and other scientific information used to support registration, except for material specifically protected by section 10 of FIFRA, are available for public inspection in the Program Management and Support Division (TS–757C), Office of Pesticide Programs, Environmental Protection Agency, Rm. 236, CM#2, Arlington, VA 22202 (703–557–3262). Request for data must be made in accordance with the provisions of the Freedom of Information Act and must be addressed to the Freedom of Information Office (A–101), 401 M St., SW., Washington, DC 20460.

Such requests should: (1) Identify the product name and registration number and (2) specify the data or information desired.

Authority: 7 U.S.C. 136.

Dated: April 21, 1986.

Susan H. Sherman,

Acting Director, Office of Pesticide Programs.

[FR Doc. 86–9769 Filed 5–6–86; 8:45 am]

BILLING CODE 6560–50–M

[PF–451; FRL–3012–1]

Shell Oil Co.; Withdrawal of Pesticide Tolerance Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the withdrawal by Shell Oil Co., of pesticide tolerance petitions for residues of the insecticide cyano (3-phenoxyphenyl) methyl-4-chloro-alpha-(methylethyl) benzeneacetate in on certain commodities.

ADDRESS: By mail, submit comments identified by the document control number [PF–451] and the petition number, attention Product Manager (PM–15), at the following address:

Information Services Section (TS–757C), Program Management and Support Division, Office of Pesticide Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460.

In person, bring comments to: Information Services Section (TS–757C), Environmental Protection Agency, Rm. 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI). Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments filed in response to this notice will be available for public inspection in the Information Services Section office at the address given above, from 8 a.m. to 4 p.m., Monday through Friday, except legal holidays.

FOR FURTHER INFORMATION CONTACT:

By mail: George T. LaRocca, (PM–15), Registration Division (TS–767C), Environmental Protection Agency, Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460

Office location and telephone number: Rm. 204, CM#2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703–557–2400)

SUPPLEMENTARY INFORMATION: EPA issued notices cited below, which announced filing of petitions by the Shell Oil Co., 1025 Connecticut Ave., NW., Washington, DC 20036, proposing tolerances for residues of the insecticide cyano (3-phenoxyphenyl) methyl-4-chloro-alpha-(1-methylethyl) benzeneacetate in or on certain commodities as follows:

Petition ID	Pub. Date (FR citation)	CFR affected	Commodities	Parts per million
PP 4F3022	Feb. 23, 1984 (49 FR 6794)	40 CFR 180.379	Citrus fruits	2.0
FAP 4H5424	...do	21 CFR Part 561	Dried citrus pulp	20.0
PP 2F2599	Dec. 5, 1984 (49 FR 47549)	40 CFR 180.379	Head lettuce	25.0

Shell Oil Co. has withdrawn these petitions without prejudice to future filing in accordance with 40 CFR 180.8.

Authority: 21 U.S.C. 346a and 348.

Dated: April 29, 1986.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 86–10019 Filed 5–6–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Privacy Act of 1974; New System of Records and Amendment to Existing System of Records

AGENCY: Federal Deposit Insurance Corporation ("FDIC").

ACTION: Notice of Proposed New System of Records and Amendment to Existing System of Records.

SUMMARY: The FDIC proposes to establish a new system of records under the Privacy Act of 1974 pertaining to an automated case management system. The FDIC also proposes to amend a routine use of information contained in the FDIC's system of records concerning consummated changes in bank control (30–60–0004).

DATE: Comments on the changes to the systems of records must be received on or before June 6, 1986.

ADDRESS: Comments may be addressed to Hoyle L. Robinson, Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429, or hand delivered to Room 6108, 550 17th St. NW, Washington, DC between 9:00 a.m.

and 5:00 p.m., Monday through Friday. Comments received may also be inspected during work days in Room 6108 between 9:00 a.m. and 5:00 p.m., Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Gail K. Jensen, Attorney, Federal Deposit Insurance Corporation, 550 17th St., NW, Washington, DC 20429, (202) 898–3758.

SUPPLEMENTARY INFORMATION: Due to the expansion of the FDIC's liquidation activities in handling insured bank failures and the ensuing increased volume of litigation, a number of internal procedures are planned within the FDIC's Legal Division to manage the increased work load. Included in these changes is the need to establish a system of records under the Privacy Act of 1974 (5 U.S.C. 552a).

The proposed system of records pertains to an automated case management system developed within the Legal Division. The case management system will track legal fees generated by law firms and lawyers retained by the FDIC as well as the costs of in-house FDIC attorneys. The case management system will also provide the ability to track specific cases by the type of case, the issue in the case, and the status of the case.

There will be various means of access to the information contained in the automated case management system. The principal means of access will be the names listed in the headings to lawsuits. Information in the system, however, also will be accessed by the name of an in-house FDIC attorney assigned to the case. Similarly, the system will provide access by the name of outside counsel retained by the FDIC to handle a case. Access to records by the name of a sole practitioner and by name of an in-house FDIC attorney establishes a system of records for purposes of the Privacy Act. There would be records under the FDIC's control that are retrieved by reference to an individual's name.

Access to records by the names of parties to lawsuits would not establish a system of records for Privacy Act purposes. The names listed in the heading to a lawsuit would not be complete names. The records in the system would not be retrieved by reference to an individual's complete name. In the context of a data base that contains entries from some 20,000 lawsuits, access by a party's last name and not complete name does not satisfy the criterion that the records be retrieved by reference to an individual's name. Similarly, access to records by the name of a law firm retained by the FDIC does not establish a "system of records." Partnerships and corporations are excluded from the Privacy Act's coverage.

The FDIC also proposes to amend its existing system of records titled "Changes in Bank Control Ownership Records" (30–60–0004). The FDIC has proposed disclosing publicly notices of acquisition of control filed under the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j)). As a result, the FDIC proposes an amendment that will expand a "routine use" of the records maintained in the system of records on changes in bank control.

The proposed systems of records and amendment are set forth below.

30–64–0019

SYSTEM NAME:

Legal Case Management System.

SYSTEM LOCATION:

Data base located at Office of the General Counsel, FDIC, 550 17th St., NW., Washington, DC 20429 with access from FDIC offices.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

FDIC staff attorneys, individuals practicing law as sole proprietors who are providing or have provided legal services to the FDIC, and certain individuals who have made inquiries for administrative and legal responses from the FDIC's Legal Division.

CATEGORIES OF RECORDS IN THE SYSTEM:

Consists of information as to certain individuals who have made inquiries for administrative and legal responses from the FDIC's Legal Division; the names of the lawsuits involving the FDIC; court/docket numbers; forum/venue; the subject matter of the lawsuit; status of the case; with respect to administrative actions, the name of the administrative law judge, address, and telephone number; with respect to litigation involving an FDIC-owned asset, asset numbers; bank or opposing counsel name, address, and telephone number; name of the bank involved; an open bank's insurance certificate number; claim amount of lawsuit; cumulative in-house expense, fees, and hours; cumulative outside expense and fees; various dates pertaining to litigation activity; estimated cost of litigation; litigation analysis; estimated time to completion of litigation; names of FDIC attorney and FDIC reviewing attorney; name of law firm or lawyer retained by the FDIC and identifying number.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) In the event that information contained in this system indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto, the relevant records may be referred to the appropriate agency, whether Federal or State, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation or order issued pursuant thereto.

(2) In the event of litigation, the appropriate records may be presented to the appropriate court, magistrate, or administrative tribunal as evidence, or to counsel for the presentation of evidence and/or in the course of discovery.

(3) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of the individual.

(4) Disclosure may be made to the appropriate state banking authority and the appropriate Federal financial institution regulatory agency that has or has had a supervisory concern for the financial institution that is the subject of the complaint.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Stored on computer discs and tapes.

RETRIEVABILITY:

Indexed by FDIC staff attorney names and names of sole practitioners retained by FDIC.

SAFEGUARDS:

Access to the system is limited to authorized personnel. Entry into the computer is by password.

RETENTION AND DISPOSAL:

Indefinitely.

SYSTEM MANAGER AND ADDRESS:

Office of the General Counsel, FDIC, 550 17th St., NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Executive Secretary, FDIC, 550 17th St., NW., Washington, DC 20429.

RECORD ACCESS PROCEDURES:

Same as "Notification" above.

CONTESTING ACCESS PROCEDURES:

Same as "Notification" above.

RECORD SOURCE CATEGORIES:

Information is obtained from attorneys handling the cases.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

30-64-0004

In the Changes in Bank Control Ownership Records System (30-64-0004) subparagraph (1) of the paragraph entitled "Routine uses of records maintained in the system, including categories of uses and the purposes of such uses" is revised to read as follows:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

(1) The name of the bank whose control is changing, the seller and purchaser, the number of shares involved, the number of outstanding shares, the date that a notice of acquisition of control (filed under the Change in Bank Control Act) has been accepted by the FDIC, and the date of acquistion will be released to the public upon request.

* * * * *

By order of the Board of Directors, April 30, 1986.

Hoyle L. Robinson,

Executive Secretary.

[FR Doc. 86-10182 Filed 5-6-86; 8:45 am]

BILLING CODE 6714-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA-759-DR]

Nevada; Amendment to Notice of a Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Nevada (FEMA-759-DR), dated February 28, 1986, and related determinations.

DATED: May 1, 1986.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC 20472, (202) 646-3616.

Notice

The notice of a major disaster for the State of Nevada, dated February 28, 1986, is hereby amended to include the following area among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 28, 1986:

That portion of the Fort McDermitt Indian Reservation located in the State of Nevada for Public Assistance only.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Samuel W. Speck,

Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 86-10174 Filed 5-6-86; 8:45 am]

BILLING CODE 6718-02-M

FEDERAL HOME LOAN BANK BOARD

[No. 86-457]

Agency Information Collection Activities Under OMB Review; Monthly Survey of Rates on Conventional 1-Family Nonfarm Mortgage Loans

Dated: May 1, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The public is advised that the Federal Home Loan Bank Board ("Board") has submitted for extension, without revision, an information collection request, "Monthly Survey of Rates on Conventional 1-Family Nonfarm Mortgage Loans" to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Comments

Comments on the information collection request are welcome and should be submitted within 15 days of publication of this notice in the **Federal Register.** Comments regarding the paperwork-burden aspects of the request should be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503. Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Requests for copies of the proposed information collection request and supporting documentation are obtainable at the Board address given below: Director, Information Services Section, Office of Secretariat, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552, Phone: 202-377-6933.

FOR FURTHER INFORMATION CONTACT: Steven Zabrenski, Office of Policy and Economic Research, (202) 377-6780, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86-10196 Filed 5-6-86; 8:45 am]

BILLING CODE 6720-01-M

[86-456]

Agency Information Collection Activities Under OMB Review; Trust Department Application

Dated: May 1, 1986.

AGENCY: Federal Home Loan Bank Board.

ACTION: Notice.

SUMMARY: The public is advised that the Federal Home Loan Bank Board ("Board") has submitted a new information collection request, "Trust Department Application" to the Office of Management and Budget for approval in accordance with the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Comments

Comments on the information collection request are welcome and should be submitted within 5 days of publication of this notice in the **Federal Register.** Comments regarding the paperwork-burden aspects of the request should be be directed to: Office of Management and Budget, Office of Information and Regulatory Affairs, Washington, DC 20503. Attention: Desk Officer for the Federal Home Loan Bank Board.

The Board would appreciate commenters sending copies of their comments to the Board.

Request for copies of the proposed information collection request and supporting documentation are obtainable at the Board address given below: Director, Information Services Section, Office of the Secretariat, Federal Home Loan Bank Board, 1700 G Street NW., Washington, DC 20552, Phone: 202-377-6933.

FOR FURTHER INFORMATION CONTACT: Kathy O' Dea, Office of District Banks, (202) 377-6789, Federal Home Loan Bank

Board, 1700 G Street NW., Washington, DC 20552.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86-10195 Filed 5-6-86; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-476]

Bay View Federal Savings & Loan Association, San Mateo, CA; Final Action Approval of Conversion Application

Dated: May 1, 1986.

Notice is hereby given that on April 9, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Bay View Federal Savings and Loan Association, San Mateo, California for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of San Francisco, Post Office Box 7948, San Francisco, California 94120.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86-10199 Filed 5-6-86; 8:45 am]

BILLING CODE 6720-01-M

[No. AC-475]

Twin City Federal Savings & Loan Association, Minneapolis, MN; Final Action Approval of Conversion Application

Dated: May 1, 1986.

Notice is hereby given that on April 15, 1986, the Office of General Counsel of the Federal Home Loan Bank Board, acting pursuant to the authority delegated to the General Counsel or his designee, approved the application of Twin City Federal Savings and Loan Association, Minneapolis, Minnesota, for permission to convert to the stock form of organization. Copies of the application are available for inspection at the Secretariat of the Board, 1700 G Street, NW., Washington, DC 20552, and at the Office of the Supervisory Agent of the Federal Home Loan Bank of Des Moines, 907 Walnut Street, Des Moines, Iowa 50309.

By the Federal Home Loan Bank Board.

Jeff Sconyers,

Secretary.

[FR Doc. 86-10198 Filed 5-6-86; 8:45 am]

BILLING CODE 6720-01-M

FEDERAL MARITIME COMMISSION

Agreements Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreements pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in §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.: 212-009847-014.

Title: U.S. Atlantic Coast/Brazil Agreement.

Parties:

Companhia de Navegacao Lloyd Brasileiro

Companhia de Navegacao Maritime Netumar

United States Lines (S.A.) Inc.

Synopsis: The proposed amendment would modify the agreement to change the date from March 31, 1986 to August 31, 1986, in order to extend the temporary adjustments necessitated by the integration of alternate coast service into the pooling arrangements.

Agreement No.: 212-009848-016.

Title: U.S. Gulf Ports/Brazil Agreement.

Parties:

Companhia de Navegacao Lloyd Brasileiro

Companhia Maritima Nacional

United States Lines (S.A.) Inc.

Synopsis: The proposed amendment would extend until August 31, 1986 previously approved adjustments necessitated by the integration of alternate coast service into the pooling arrangements.

Agreement No.: 212-010320-011.

Title: Brazil/U.S. Gulf Ports Agreement.

Parties:

Companhia de Navegacao Lloyd Brasileiro

Companhia Maritimas Nacional

United States Lines (S.A.) Inc.

Empresa Lineas Maritimas Argentinas S.A.

A. Bottacchi S.A. de Navegacion C.F.I.I.

Transportacion Maritima Mexicana S.A.

Synopsis: The proposed amendment would modify the agreement to change the date from March 31, 1986 to August 31, 1986, in order to extend the temporary adjustments necessitated by the integration of alternate coast service into the pooling arrangements.

Agreement No.: 212-010382-009.

Title: Argentina/U.S. Gulf Ports Agreement.

Parties:

A. Bottacchi S.A. de Navegacion C.F.I.I.

Cia. de Navegacao Lloyd Brasileiro

Companhia Maritima Nacional

Empresa Lineas Maritimas Argentinas S.A.

Reefer Express Lines Pty, Ltd.

Transportacion Maritima Mexicana S.A.

United States Lines (S.A.) Inc.

Synopsis: The proposed amendment would modify the agreement to increase the amount of iron and steel articles exempted from the pooling requirements.

Agreement No.: 212-010386-008.

Title: Argentina/U.S. Atlantic Coast Agreement.

Parties:

A. Bottacchi S.A. de Navegacion C.F.I.I.

Cia. de Navegacao Lloyd Brasileiro

Empresa Lineas Maritimas Argentinas S.A.

United States Lines (S.A.) Inc.

Reefer Express Lines Pty, Ltd.

Van Nievelt, Goudriaan & Co.

Synopsis: The amendment would add "open rated iron and steel articles" to the list of commodities not subject to the pool. Under the terms of the agreement the amendment may become effective upon filing.

Agreement No.: 217-010823-003.

Title: Canadian Transport Company/C.M.B. n.v. Joint Container Service Agreement.

Parties:

Canadian Transport Company (CTCO)

C.M.B. n.v. (CMB)

Synopsis: The proposed amendment would enlarge the scope of the agreement to include ports and points in Italy, Alaska and Hawaii. It would also permit CTCO to provide additional container space to the joint container service by chartering space at CTCO's expense from other vessel operators and

would authorize CTCO and CMB to agree upon the amounts of such vessel space to be chartered by CTCO for the service.

Agreement No.: 24–010921.

Title: Port of Portland Terminal Agreement.

Parties:

The Port of Portland (Port)
The EAC Lines Transpacific Service, Ltd. (Lines)
Kawasaki Kisen Kaisha, Ltd. (Lines)
Mitsui O.S.K. Lines, Ltd. (Lines)

Synopsis: The proposed agreement would provide for the preferential use by the Lines of 7 acres of container yard, a berth, and two container cranes. The preferential berthing period shall be for a fixed 48-hour period each week. The Port will perform all terminal and stevedoring services at the premises, and the Lines agree to pay for these services in accordance with the Port's 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. Revenues from dockage, wharfage, wharf demurrage, and storage paid by the Lines on their vessels and cargoes will be applied against the minimum annual guarantee. The term of the agreement is three years, with the option to renew for an additional two-year term.

Agreement No.: 213–010922.

Title: Convoy Intercontinental Container Transport/Canadian Transport Company Space Charter Agreement.

Parties:

Canadian Transport Company (CTCO)
Convoy Intercontinental Container Transport GmbH & Co. KG (Convoy)

Synopsis: The proposed agreement would permit CTCO to charter space on Convoy's vessels for the carriage of cargo in the trades between ports on the West Coast of the United States and ports in the United Kingdom and North Europe (Bordeaux-Hamburg range). It would also permit the parties to agree upon the sailing schedules of their vessels.

By Order of the Federal Maritime Commission.

Dated May 2, 1986.

John Robert Ewers,

Secretary.

[FR Doc. 86–10212 Filed 5–6–86; 8:45 am]

BILLING CODE 6730-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 86F–0158]

Betz Laboratories, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Betz Laboratories, Inc., has filed a petition proposing that the food additive regulations be amended to provide for the safe use of 2-bromo-2-nitropropane-1,3-diol as a slimicide in the manufacture of paper and paperboard for food-contact use.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3915) has been filed by Betz Laboratories, Inc., Somerton Rd., Trevose, PA 19047, proposing that § 176.300 *Slimicides* of the food additive regulations (21 CFR 176.300) be amended to provide for the safe use of 2-bromo-2-nitropropane-1,3-diol as a slimicide in the manufacture of paper and paperboard for food-contact use.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Dated: April 29, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–10161 Filed 5–6–86; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 86F–0159]

Ciba-Geigy Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ciba-Geigy Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of poly[[6-[(1,1,3,3-tetramethylbutyl) amino]-*s*-triazine-2,4-diyl] [(2,2,6,6-tetramethyl-4-piperidyl) imino]hexamethylene[(2,2,6,6-tetramethyl-4-piperidyl)imino]] as a stabilizer for polyethylene and olefin copolymers used in the manufacture of articles or components of articles intended for food-contact use.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3921) has been filed by Ciba-Geigy Corp., Three Skyline Dr., Hawthorne, NY 10532, proposing that § 178.2010 *Antioxidants and/or stabilizers for polymers* (21 CFR 178.2010) be amended to provide for the safe use of poly[[6-[(1,1,3,3-tetramethylbutyl) amino]-*s* triazine-2,4-diyl] [2,2,6,6-tetramethyl-4-piperidyl) imino]hexamethylene[(2,2,6,6-tetramethyl-4-piperidyl)imino]] as a stabilizer for polyethylene and olefin copolymers used in the manufacture of articles or components of articles intended for food-contact use.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Dated: April 29, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–10162 Filed 5–6–86; 8:45 am]

BILLING Code 4160-01-M

[Docket No. 86F–0151]

Dow Chemical Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that the Dow Chemical Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of hydrogen peroxide solution to sterilize polymeric food-contact surfaces prepared from ethylene-acrylic acid copolymers.

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

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6B3928) has been filed by the Dow Chemical Co. Midland, MI 48674, proposing that § 178.1005 *Hydrogen peroxide solution* (21 CFR 178.1005) be amended to provide for the safe use of hydrogen peroxide solution to sterilize food-contact surfaces prepared from ethylene-acrylic acid copolymers complying with § 177.1310 (21 CFR 177.1310).

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Dated: April 29, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–10163 Filed 5–6–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86F–0154]

The Goodyear Tire & Rubber Co.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that The Goodyear Tire & Rubber Co. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of ethylene terephthalate-isophthalate copolymers containing a minimum of 97 weight percent of polymer units derived from ethylene terephthalate for use as components of food-contact articles.

FOR FURTHER INFORMATION CONTACT: Hortense S. Macon, Center for Food Safety and Applied Nutrition (HFF–335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202–426–5690.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(c)(5))), notice is given that a petition (FAP 5B3884) has been filed by The Goodyear Tire & Rubber Co., 130 Johns Ave., Akron, OH 44316–0001, proposing that § 177.1630 *Polyethylene phthalate polymers* (21 CFR 177.1630) be amended to provide for the safe use of ethylene terephthalate-isophthalate copolymers containing a minimum of 97 weight percent of polymer units derived from ethylene terephthalate for use as components of food-contact articles.

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Dated: April 29, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–10164 Filed 5–6–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86F–0153]

Radiation Technology, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Radiation Technology, Inc. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of a source of gamma radiation to control spoilage bacteria and/or pathogens and parasites in seafoods.

FOR FURTHER INFORMATION CONTACT: Clyde A. Takeguchi, Center for Food Safety and Applied Nutrition (HFF–330), Food and Drug Administration, 200 C. Street SW., Washington, DC 20204, 202–472–5740.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (see. 409(b)(5), 72 Stat. 1786 (21 U.S.C. 348(b)(5))), notice is given that a petition (FAP 6M3907) has been filed by Radiation Technology, Inc., Lake Denmark Rd., Rockaway, NJ 07860, proposing that Part 179 (21 CFR Part 179) of the food additive regulations be amended to provide for the safe use of a cobalt 60 or cesium 137 source of gamma radiation to control spoilage bacteria and/or pathogens and parasites in seafoods, including fishes, molluscs, crustaceans, and amphibians, at doses not to exceed 3 kilogray (300 kilorad).

The potential environmental impact of this action is being reviewed. If the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c), as published in the **Federal Register** of April 26, 1985 (50 FR 16636).

Dated: April 29, 1986.

Richard J. Ronk,

Acting Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86–10165 Filed 5–6–86; 8:45 am]

BILLING CODE 4160–01–M

Health Resources and Services Administration

Health Education Assistance Loan Program; Maximum Interest Rates for Quarter Ending June 30, 1986 and Rate of Insurance Premium

Section 727 of the Public Health Service Act (42 U.S.C. 294) authorizes the Secretary of Health and Human Services to establish a Federal program of student loan insurance for graduate students in health professions schools.

A. Section 60.13(a)(4) of the program's implementing regulations (42 CFR Part 60, previously 45 CFR Part 126) provides that the Secretary will announce the interest rate in effect on a quarterly basis.

The Secretary announces that for the period ending June 30, 1986, three interest rates are in effect for loans executed through the Health Education Assistance Loan (HEAL) program.

1. For loans made before January 27, 1981, the variable interest rate is 10⅝ percent. Using the regulatory formula (45 CFR 126.13(a) (2) and (3)), in effect prior to January 27, 1981, the Secretary would normally compute the variable rate for this quarter by finding the sum of the fixed annual rate (7 percent) and a variable component calculated by subtracting 3.50 percent from the average bond equivalent rate of 91-day U.S. Treasury bills for the preceding

calendar quarter (7.06 percent), and rounding the result (10.56 percent) upward to the nearest ⅛ percent (10⅝ percent). However, the regulatory formula also provides that the annual rate of the variable interest rate for a 3-month period shall be reduced to the highest one-eighth of 1 percent which would result in an average annual rate not in excess of 12 percent for the 12-month period concluded by those 3 months. Because the average rate of the 4 quarters ending March 31, 1986 is not in excess of 12 percent, there is no necessity for reducing the interest rate. For the previous 3 quarters the variable interest at the annual rate was as follows: 11⅜ percent for the quarter ending September 30, 1985; 10⅞ percent for the quarter ending December 31, 1985; and 11 percent for the quarter ending March 31, 1986.

2. For variable rate loans executed during the period of January 27, 1981 through October 21, 1985, the interest rate is 10⅝ percent. Using the regulatory formula (42 CFR 60.13(a)(3)) in effect since January 27, 1981, the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (7.06 percent); adding 3.50 percent (10.56 percent); and rounding that figure to the next higher one-eighth of 1 percent (10⅝ percent).

3. For fixed rate loans executed during the period of April 1, 1986 through June 30, 1986, and for variable rate loans executed on or after October 22, 1985, the interest rate is 10⅛ percent. The Health Professions Training Assistance Act of 1985 (Pub. L. 99–129), enacted October 22, 1985, amended the formula for calculating the interest rate by changing 3.5 percent to 3 percent. Using the regulatory formula (42 CFR 60.13(a)(2) and (3)) and substituting the new statutory change of 3 percent, the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Treasury bills during the preceding quarter (7.06 percent); adding 3.0 percent (10.06 percent) and rounding that figure to the next higher one-eighth of 1 percent (10⅛ percent).

B. Pub. L. 99–129 also contains modifications to the insurance premium calculation that become effective 9 months after enactment of the statute (July 21, 1986). Until that date, § 60.14(b) of the regulations remains in effect.

It provides that the rate of the insurance premium shall not exceed 2 percent per year of the loan principal and that the Secretary will announce the rate of the insurance premium on a quarterly basis through a notice published in the **Federal Register.**

The Secretary announces that for the period ending June 30, 1986, the rate of the insurance premium continues to be 2 percent per year of the loan principal for loans executed through the HEAL program.

(Catalog of Federal Domestic Assistance No. 13.108, Health Education Assistance Loans)

Dated: May 1, 1986.

John H. Kelso,

Acting Administrator.

[FR Doc. 86–10169 Filed 5–6–86; 8:45 am]

BILLING CODE 4160–15–M

National Institutes of Health

National Cancer Advisory Board and Board Subcommittees; Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the National Cancer Advisory Board, May 19–21, 1986, National Cancer Institute, Building 31C, Conference Room 6, 6th floor, National Institutes of Health, Bethesda, Maryland 20892. Meetings of Subcommittees of the Board will be held at the times and places listed below. Portions of the Board meeting and its Subcommittees will be open to the public to discuss committee business as indicated in the notice. Attendance by the public will be limited to space available.

Portions of these meetings will be closed to the public as indicated below in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, for the review, discussion and evaluation of individaul grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

The Subcommittee on Planning and Budget will be closed to the public as indicated below in accordance with the provisions set forth in Section 552b(c)(9)(B), Title 5, U.S. Code and section 10(d) of Pub. L. 92–463, to discuss the 1988 preliminary budget.

Mrs. Winifred Lumsden, the Committee Management Officer, NCI, Building 31, Room 10A06, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5708) will provide summaries of the meetings and rosters of Board members, upon request.

Mrs. Barbara S. Bynum, Executive Secretary, National Cancer Advisory Board, National Cancer Institute, Building 31, Room 10A03, National Institutes of Health, Bethesda, Maryland 20892 (301/496–5147) will furnish substantive program information.

Name of committee: *National Cancer Advisory Board*

Dates of Meeting: May 19–21, 1986

Place of Meeting: Building 31C, Conference Room 6, 6th floor, National Institutes of Health

Open:

May 19, 8:30 a.m.—recess

May 21, 8:00 a.m.—adjournment

Agenda: Reports on activities of the President's Cancer Panel and the Director's Report on the National Cancer Institute; Subcommittee Reports and New Business.

Closed Session: May 20, 8:30 a.m.—recess

Closure Reason: To review grant applications.

Name of committee: *Subcommittee on Planning and Budget*

Dates of Meeting: May 19, 1986

Place of Meeting: Building 31, A Wing, Conference Room 11A10, 11th Floor National Institutes of Health

Closed: May 19, 7:30 p.m.—adjournment

Closure Reason: To discuss the preliminary FY 88 budget.

Name of committee: *Subcommittee on Special Actions for Grants*

Dates of Meeting: May 20, 1986

Place of Meeting: Building 31, C Wing, Conference Room 6, 6th Floor, National Institutes of Health

Closed: May 20, 8:30 a.m.—adjournment

Closure Reason: To review grant applications.

(Catalog of Federal Domestic Assistance Program Numbers:
13.392, project grants in cancer construction.
13.393, project grants in cancer cause and prevention.
13.394, project grants in cancer detection and diagnosis.
13.395, project grants in cancer treatment.
13.396, project grants in cancer biology.
13.397, project grants in cancer centers support.
13.398, project grants in cancer research manpower.
13.399, project grants and contracts in cancer control.)

[FR Doc. 86–10316 Filed 5–5–86; 11:27 am]

BILLING CODE 4140–01–M

DEPARTMENT OF THE INTERIOR

Office of the Secretary

President's Commission on Americans Outdoors

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amendd, notice is hereby given that a meeting of the President's Commission on American Outdoors (Commission) will be held Wednesday, May 14, 1986, starting at 10:30 am, in the Ballroom of the Brown Palace Hotel/ Denver Inn, 310—17th Street, Denver, CO 80202. Due to heavy demand for presentations to the Commission this second site has been selected for the Commission hearing to be held in Denver on this date.

This will be a hearing to obtain information on the kinds of programs that are provided and opportunities afforded in recreation programs in this country. Attendees have been invited by the Commission for this public hearing; however interested parties may request time to testify by contacting the Commission.

This meeting is opened to the public, interested persons may attend. The Commission contact is Mr. James Gasser, and he may be contacted at the President's Commission on Americans Outdoors, P.O. Box 18547, 1111—20th Street, NW, Washington, DC 20036–8547, (202) 634–7310.

Dated: May 2, 1986.

Victor H. Ashe,

Executive Director, President's Commission on Americans Outdoors.

[FR Doc. 86–10201 Filed 5–6–86; 8:45 am]

BILLING CODE 4310-70

Bureau of Land Management

Extension of Information Collection Approval

Extension of approval for the information collection listed below has been submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the information and collection requirement and related forms and explanatory material may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on extension of the requirement should be made directly to the Bureau clearance officer and the Office of Management and Budget at 202–395–7340.

Title: 43 CFR Parts 2800 and 2880, Additional Information for Right-of-Way Application
Bureau Form Number: No form—only a regulatory requirement
Frequency: Once when an application is filed
Description of Respondents: Applicants needing a right-of-way on Federal lands
Annual Responses: 1,000
Annual Burden Hours: 16,800
Bureau Clearance Officer: Rebecca Daugherty: 202–653–8853.

Vincent J. Hecker,

Acting Assistant Director, Land Resources.

March 3, 1986.

[FR Doc. 86–10154 Filed 5–6–86; 8:45 am]

BILLING CODE 4310-84-M

[M 63882]

Notice of Conveyance; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of conveyance of public land in Fergus, Hill, Valley, and Chouteau Counties, Montana.

SUMMARY: This notice informs the public and interested state and local governmental officials of the transfer of certain public lands to private ownership pursuant to the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1701.

FOR FURTHER INFORMATION CONTACT: Edward H. Croteau, Chief, Lands Adjudication Section, BLM, Montana State Office, P.O. Box 36800, Billings, Montana 59107, Phone (406) 657–6082.

SUPPLEMENTARY INFORMATION:

1. Notice is hereby given that pursuant to Sec. 206 of FLPMA, the following described surface estate was conveyed to the parties shown:

Principal Meridian, Montana

Honrud Enterprises, Inc.:
T. 34 N., R. 40 E.,
Sec. 4, lot 1, SE¼NE¼.
80.15 acres.

Ted Solomon:
T. 31 N., R. 16 E.,
Sec. 25, lot 4.
3.90 acres.

Steve and Wanda McIntosh:
T. 37 N., R. 10 E.,
Sec. 24, NE¼NE¼.
T. 37 N., R. 11 E.,
Sec. 19, lot 1.
80.31 acres.

Richard W. Cook:
T. 26 N., R. 15 E.,
Sec. 34, SE¼SE¼.
40 acres.

James C. Taylor:
T. 19 N., R. 21 E.,
Sec. 6, S½SE¼, SE¼SW¼.
120 acres.

Robert E. Lee Ranch Co.:
T. 11 N., R. 17 E.,
Sec. 13, SW¼NE¼.
40 acres.

Robert Bold:
T. 20 N., R. 20 E.,
Sec. 8, NE¼NE¼, W½NE¼, NW¼.
280 acres.

Total 644.36 acres.

2. In exchange for the above selected land, the United States acquired the surface estate of the following described land in Chouteau County, Montana:

Principal Meridian, Montana

An island in the Missouri River more particularly described as follows:
T. 24 N., R. 9 E.,
Sec. 9, lot 5 and all accretions thereto;
Sec. 10, lot 3 and all accretions thereto.
Containing 38.30 acres, more or less.

and

T. 24 N., R. 13 E.,
Sec. 23, lots 3 and 5 and all accretions thereto;
Sec. 25, lots 6, 7, 8 and all accretions thereto, NW¼SW¼, SE¼SW¼, SW¼SE¼;
Sec. 26, lots 2 and 3 and all accretions thereto; N½NW¼.
Containing 398.18 acres, more or less.
Total acreage acquired—436.48 acres.

3. The values of federal public land were appraised at $76,680 and the nonfederal land was appraised at $75,700. A cash equalization payment of $980 was made to the United States.

Edward H. Croteau,

Chief, Lands Adjudication Section, Montana State Office.

April 29, 1986.

[FR Doc. 86–10156 Filed 5–6–86; 8:45 am]

BILLING CODE 4310-DN-M

[A-20346-B]

Realty Action; Exchange of Public Lands, Pinal County, AZ

SUMMARY: The following described lands and interests therein have been determined to be suitable for disposal by exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

Gila and Salt River Meridian, Arizona

A 20346–B

T. 6 S., R. 13 E.,
Sec. 1, Lot 7, SW¼SE¼.
T. 6 S., R. 14 E.,
Sec. 1, S½SE¼.
T. 7 S., R. 13 E.,
Sec. 3, Lot 4, S½N½;
Sec. 8, E½;

Sec. 19, Lots 1–4, E½, E½W½;
Sec. 20, All;
Sec. 21, All;
Sec. 28, N½NE¼.
T. 7 S., R. 14 E.,
Sec. 6, Lots 1–4, SE¼NE¼;
Sec. 30, Lots 1–4, W½NE¼, SE¼NE¼, E½NW¼, NE¼SW¼, N½SE¼.
T. 10 S., R. 11 E.,
Sec. 6, NE¼;
Sec. 19, Lots 2, 3, E½SW¼, SE¼;
Sec. 21, All;
Sec. 26, NW¼, S½;
Sec. 28, W½.
T. 10 S., R. 12 E.,
Sec. 22, SW¼NW¼, N½SW¼;
Sec. 27, SE¼;
Sec. 30, Lots 1, 2;
Sec. 34, E½;
Sec. 35, SE¼NE¼, S½NW¼, S½.

The above described 5437.88 acres will be exchanged under the federal-state exchange program for Arizona State Land Department lands of equal value.

The public land will be transferred subject to road right-of-way A 21186 and excepting and reserving to the United States the following:

Right-of-way thereon for ditches and canals pursuant to the Act of August 30, 1890.

El Paso Natural Gas Company gas pipeline rights-of-way PHX 078163 and AR 08324.

Right of Entry for Reach 3 of Tucson Adqueduct of CAP (Right-of-way A 20875 if authorized).

Oil and gas leases A 10916, A 18941 and A 19646 for the duration of the leases.

Detailed information concerning this exchange can be obtained from the Phoenix Resource Area Office, 2015 West Dear Valley Road, Phoenix, Arizona 85027. For a period of forty-five (45) days from the date of publication of this Notice in the **Federal Register**, interested parties may submit comments to the District Manager, Phoenix District Office, 2015 W. Deer Valley Road, Phoenix, Arizona 85027. Any adverse comments will be evaluated by the State Director who may sustain, vacate, or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: April 28, 1986.

Marlyn V. Jones,

District Manager.

[FR Doc. 86–10155 Filed 5–6–86; 8:45 am]

BILLING CODE 4310–32–M

[CA 18105]

Realty Action; Exchange of Public and Private Lands in San Bernardino County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action.

SUMMARY: The following described public lands have been determined to be suitable for disposal by exchange under section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716:

San Bernardino Meridian, California

T. 4 N., R. 14 E.,
Sec. 2: ALL;
Sec. 3: ALL;
Sec. 4: ALL.
T. 5 N., R. 14 E.,
Sec. 8: All;
Sec. 18: All;
Sec. 19: All;
Sec. 20: All;
Sec. 22: All;
Sec. 23: All;
Sec. 24: All;
Sec. 26: NE¼, W½, N½SE¼;
Sec. 27: All;
Sec. 28: All;
Sec. 32: All;
Sec. 34: All;
Sec. 35: All.
T. 5 N., R. 15 E.,
Sec. 8: All;
Sec. 18: All.

Containing 11,389.22 acres of public land.

In exchange for these lands the Federal Government will acquire scattered tracts of non-Federal land from Santa Fe Pacific Realty Corporation, 201 Mission Street, San Francisco, California 94105. The lands are described as follows:

San Bernardino Meridian, California

T. 2 N., R. 15 E.,
Sec. 1: Lots 1 & 2 of NW¼, lots 1 & 2 of NE¼.
T. 2 N., R. 16 E.,
Sec. 5: Lots 1 & 2 of NW¼, Lots 1 & 2 of NE¼;
Sec. 9: All;
Sec. 17: N½, SW¼.
T. 3 N., R. 15 E.,
Sec. 13: All;
Sec. 25: All.
T. 5 N., R. 11 E.,
Sec. 1: All.
T. 8 N., R. 13 E.,
Sec. 1: All.
T. 8 N., R. 14 E.,
Sec. 5: All.
T. 9 N., R. 11 E.,
Sec. 1: Lot 1 of NW¼, SW¼, S½SE¼;
Sec. 5: All;
Sec. 9: All;
Sec. 13: All;
Sec. 17: All;
Sec. 21: All.
T. 9 N., R. 12 E.,
Sec. 7: Lots 1–4, E½SW¼, W½SE¼;
Sec. 17: W½NW¼, SW¼, W½SE¼.
T. 9 N., R. 13 E.,
Sec. 25: All.
T. 9 N., R. 14 E.,
Sec. 5: Lots 1, 2, 5, 6, 7, W½SW¼, SE¼;
Sec. 7: Lots 2, 3, 4, E½;
Sec. 21: E½, SE¼NW¼, E½SW¼;
Sec. 33: All.
T. 10 N., R. 11 E.,
Sec. 19: Lots 1 & 2 of NW¼, Lots 1 & 2 of SW¼, W½NE¼, SE¼NE¼, SE¼;
Sec. 21: SW¼SW¼;
Sec. 27: W½SW¼;
Sec. 29: All;
Sec. 33: All;
Sec. 35: SW¼NW¼, W½SW¼, SE¼SW¼, SW¼SE¼.
T. 10N., R. 14 E.,
Sec. 1: Lots 1 & 2.
T. 10N., R. 15 E.,
Sec. 5: Lots 1–4;
Sec. 9: All;
Sec. 17: All.
T. 11N., R. 15 E.,
Sec. 13: (Tract 38);
Sec. 25: (Tract 41);
Sec. 29: Lot 1, S½NE¼, S½SW¼, NE¼SE¼, W½SE¼.
T. 11N., R. 21 E.,
Sec. 5: (Tract 37).
T. 12N., R. 17 E.,
Sec. 9: (Tract 67);
Sec. 13: Lots 2, 3, 5, 7, 21, and SW¼, and SW¼SE¼ of Tract 79.
T. 13 N., R. 18 E.,
Sec. 25: All.

Containing 18,993.02 acres of non-Federal land.

The purpose of the exchange is to acquire the non-Federal lands for use in Federal recreation programs in the southern California Desert. The exchange is consistent with the Bureau's planning for the lands involved and has been discussed with San Bernardino County officials. The public interest will be well served by making the exchange.

The values of the lands to be exchanged are approximately equal. Full equalization of values will be achieved by acreage adjustments. The surface and mineral estates will be exchanged on both the non-Federal and public lands, subject to valid existing rights.

Lands to be transferred from the United States will be subject to the following reservations, terms and conditions:

1. A right-of-way will be reserved for ditches and canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945; 26 Stat. 391).

2. Right-of-way for a communication site granted to the Atchinson, Topeka and Santa Fe Railroad by LA 0168288 under Act of March 4, 1911 (43 U.S.C. 961) in Sec. 26, and 35 of T. 5N., R. 14 E. SBM.

3. Right-of-way for cathodic protection granted to Four Corners Pipeline Company by LA 0169486 under Act of February 25, 1920 show U.S. code also (41 Stat. 437, 30 U.S.C. 181) in Sec. 35 of T. 5 N., R. 14 E., SBM.

4. Existing oil and gas leases granted to Harper Oil Company, its successor and assigns, by leases CA–9302 and CA 9305 under the authority of the Act of February 25, 1920 (41 Stat. 437, 30 U.S.C. 181).

5. An existing railroad right-of-way granted to Arizona and California Railroad Company, its successors and assigns, by right-of-way grant LA–011100 under the authority of the Act of March 3, 1875 (43 U.S.C. 934–939) in Secs. 22, 23 and 26 of T. 5 N., R. 14 E., SBM.

6. An existing electric powerline right-of-way granted to Southern California Edison Company, its successors and assigns, by right-of-way grant LA–0166523 under the authority of the Act of March 4, 1911 (43 U.S.C. 961) in Secs 22, 26, 27, and 35 of T. 5 N., R. 14 E., SBM.

7. An existing telephone line right-of-way granted to Pacific Bell, its successors and assigns, by right-of-way grant LA–047694 under authority of the Act of March 4, 1911 (43 U.S.C. 961) in Secs. 22, 23, 27 and 28 of T. 5 N., R. 14 E., SBM.

8. An existing telephone line right-of-way granted to Southern California Telephone Company, its successors and assigns, by right-of-way grant LA–055377 under authority of the Act of March 4, 1911 (43 U.S.C. 961) in Sec. 8 of T. 5 N., R. 14 E., SBM.

9. An existing gas pipeline right-of-way granted to Four Corners Pipeline Company, its successors and assigns, by right-of-way grant LA–0152777 under authority of the Act of February 25, 1920 (41 Stat. 437, 30 U.S.C. 181) in Secs. 3 and 4 of T. 4 N., R. 14 E., SBM, and Sec. 26, 34, and 35 of T. 5 N., R. 14 E., SBM.

10. An existing oil pipeline right-of-way granted to Celeron/All American Pipeline Company, its successors and assigns, by right-of-way grant CA–14013 under the authority of Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185) in Secs. 18, 20, 22, 26, and 27 of T. 5 N., R. 14 E., SBM.

Publication of this notice in the **Federal Register** segregates the public lands from the operation of the public land laws and the mining laws, except for mineral leasing. The segregative effect will end upon issuance of patent or two (2) years from the date of publication, whichever occurs first. Detailed information concerning the exchange, including the environmental assessment, is available for review at the California Desert District Office, 1695 Spruce Street, Riverside, California 92507, and at the Needles Resource Area Office, 901 Third Street, Needles, California 92363.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, California Desert District, 1695 Spruce Street, Riverside, California 92507. Objections will be reviewed by the State Director, who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: April 30, 1986.

H. W. Riecken,

Acting District Manager.

[FR Doc. 86–10173 Filed 5–6–86; 8:45 am]

BILLING CODE 4310–40–M

Fish and Wildlife Service

Receipt of Application for Permit; Janmark, Inc.

The public is invited to comment on the following application for a permit to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals. (50 CFR Part 18).

Applicant:

Name: Janmark, Inc., File no. PRT–706641.

Address: 236 Third Ave., Suite E, Chula Vista, CA 92010

Type of Permit: Scientific Research

Name and Number of Animals: polar bear (*Ursus maritimus*); 15

Summary of Activity to be Authorized: The applicant proposes to Import (elaborate on reasons) one blood sample from each of these animals to determine their reproductive condition at the time of sampling.

Source of Marine Mammals for Research: Northwest Territories Wildlife Service, Rankin Inlet, N.W.T., CANADA XOC OGO

Period of Activity: 2 yrs.

Concurrent with the publication of this notice in the **Federal Register**, the Federal Wildlife Permit Office is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Written data or comments, requests for copies of the complete application, or requests for a public hearing on this application should be submitted to the Director, U.S. Fish and Wildlife Service (FWPO), 1000 North Glebe Road, Room 611, Arlington, Virginia 22201, within 30 days of the publication of this notice. Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such hearing is at the discretion of the Director.

Documents submitted in connections with the above application(s) are available for review during normal business hours (7:45 am to 4:15 pm) in Room 601 N. Glebe Road, Arlington, Virginia.

Dated: April 30, 1986.

Larry LaRochelle,

Chief, Branch of Permits, Federal Wildlife Permit Office.

[FR Doc. 86–10142 Filed 5–6–86; 8:45 am]

BILLING CODE 4310–55–M

Geological Survey

Consolidation of Eastern/Western Distribution Branches

Notice is hereby given that the U.S. Geological Survey's two regional branches responsible for distributing USGS maps and text products are being consolidated and will operate from a single location at the Federal Center in Denver, Colorado.

As a result of the consolidation of the Eastern Distribution Branch and the Western Distribution Branch, the Eastern Branch in Northern Virginia will be permanently closed in order to bring about a more cost-efficient operation from a single facility. Products presently distributed by the Eastern Distribution Branch include USGS topographic quadrangle and other maps for the area east of the Mississippi River, including Minnesota, Puerto Rico, and the Virgin Islands, and all Geological Survey books, leaflets, and other text products. On the following effective dates, all U.S. Geological Survey products will be available at the Denver location.

Maps:

Over-the-counter.....May 1, 1986

Mail orders.....July 1, 1986

Text Products:

Leaflets, etc., over-the-counter and mail order.....April 21, 1986

Books.....September 1, 1986

Addresses for the consolidated facilities are:

Maps:

U.S. Geological Survey, Map Distribution, Box 25286 Federal Center, Denver, Colorado 80225

Text Products:

U.S. Geological Survey, Books and Open-File Reports, Box 25425 Federal Center, Denver, Colorado 80225.

Dated: April 30, 1986.

Lowell E. Starr,

Chief, National Mapping Division, U.S. Geological Survey.

[FR Doc. 86-10152 Filed 5-6-86; 8:45 am]

BILLING CODE 4310-31-M

Minerals Management Service

Development Operations Coordination Document

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed development operations coordination document (DOCD).

SUMMARY: Notice is hereby given that Tenneco Oil Exploration and Production has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4231, Block 181, Ship Shoal Area, offshore Louisiana. Proposed plans for the above area provide for the development and production of hydrocarbons with support activities to be conducted from an onshore base located at Intracoastal City, Louisiana.

DATE: The subject DOCD was deemed submitted on April 25, 1986.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico OCS Region, Minerals Management Service, 3301 North Causeway Blvd., Room 147, Metairie, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday).

FOR FURTHER INFORMATION CONTACT: Michael J. Tolbert; Minerals Management Service, Gulf of Mexico OCS Region, Rules and Production, Plans, Platform and Pipeline Section, Exploration/Development Plans Unit; Phone (504) 838-0875.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to Sec. 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected States, local governments, and other interested parties became effective December 13, 1979, (44 FR 53685). Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: April 29, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-10153 Filed 5-6-86; 8:45 am]

BILLING CODE 4310-MR-M

[DES 86-22]

Gulf of Mexico Region; Availability of the Draft Environmental Impact Statement and Intent To Hold a Public Hearing Regarding Proposed Central and Western Gulf of Mexico Lease Sales 110 (April 1987) and 112 (August 1987)

Pursuant to section 102(2)(C) of the National Evironmental Policy Act of 1969, the Minerals Management Service (MMS) has prepared a draft environmental impact statement (EIS) relating to proposed 1987 Outer Continental Shelf (OCS) oil and gas lease sales of available unleased blocks in the Central and Western Gulf of Mexico (GOM). The proposed Central Gulf Sale 110 will offer for lease approximately 31.4 million acres, and the Western Gulf Sale 112 will offer approximately 27.3 million acres. Single copies of the draft EIS can be obtained from the Minerals Management Service, Gulf of Mexico Region, 3301 N. Causeway Blvd., Post Office Box 7944, Metairie, Louisiana 70010.

Copies of the draft EIS will be available for review by the public in the following libraries: Austin Public Library, 402 West Ninth Street, Austin Texas; Houston Public Library, 500 McKinney Street, Houston, Texas; Dallas Public Library, 1513 Young Street, Dallas, Texas; Brazoria County Library, 410 Brazoport Boulevard, Freeport, Texas; LaRatama Library, 505 Mesquite Street, Corpus Christi, Texas; Texas Southmost College Library, 1825 May Street, Brownsville, Texas; Rosenburg Library, 2310 Sealy Street, Galveston, Texas; New Orleans Public Library, 219 Loyola Avenue, New Orleans, Louisiana; Louisiana State Library, 760 Riverside, Baton Rouge, Louisiana; Lafayette Public Library, 301 W. Congress, Lafayette, Louisiana; Calcasieu Parish Library, Downtown Branch, 411 Pujo Street, Lake Charles, Louisiana; Nicholls State Library, Nicholls State University, Thibodaux, Louisiana; Harrison County Library, 14th and 21st Avenue, Gulfport, Mississippi; Mobile Public Library, 701 Government Street, Mobile, Alabama; Montgomery Public Library, 445 South Lawrence Street, Montgomery, Alabama; St. Petersburg Public Library, 3745 Ninth Avenue North, St. Petersburg, Florida; West Florida Regional Library, 200 West Gregory Street, Pensacola, Florida; Northwest Regional Library System, 25 West Government Street, Panama City, Florida; Leon County Public Library, 127 North Monroe Street, Tallahassee, Florida; Lee County Library, 3355 Fowler Street, Fort Myers, Florida; Charlotte-Glades Regional Library System, 2280 NW Aaron Street, Port Charlotte, Florida; Tampa-Hillsborough County Public Library System, 800 North Ashley Street, Tampa, Florida.

In accordance with 30 CFR 256.26, a public hearing pertaining to these lease sales will be held at the following location and time: Minerals Management Service, Gulf of Mexico Region, Imperial Office Building, Conference Room 437, 3301 North Causeway Boulevard, Metairie, Louisiana 70010, June 19, 1986, 9:00 a.m.

The purpose of the public hearing is to provide the Department of the Interior and the Minerals Management Service with information from individuals, public and private groups, and Government Agencies to further evaluate the potential effects of the proposed lease sales. Pertinent testimony and comments will be addressed in the final EIS for Sales 110 and 112.

Persons who wish to testify at this hearing are rquested to contact the Regional Supervisor, Leasing and Environment (LE-2), Gulf of Mexico Region, at the above address, or by telephone (504) 838-0775 no later than 3:30 p.m., June 13, 1986. Others may have an opportunity to speak following testimony of those who have made arrangements in advance, if time permits. Oral testimony should be limited to 10 minutes. Testimony may be supplemented by a written statement which, if submitted at a hearing, will be considered as part of the hearing record. Those unable to attend the hearing may submit written statements until the close of the comment period, July 3, 1986. Written statements will receive the same degree of consideration in the final EIS as oral testimony presented at the hearing.

John B. Rigg,

Acting Director, Minerals Management Service.

Approved:

Dated: May 1, 1986.

Bruce Blanchard,

Director, Office of Environmental Project Review.

[FR Doc. 86-10145 Filed 5-6-86; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Intention to Negotiate Concession Contract; Island Packers, Inc.

Pursuant to the provisions of Section 5 of the Act of October 9, 1965, (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Island Packers, Inc. authorizing it to continue to provide tourboat transportation facilities and services for the public at Channel Islands National Park for a period of ten (10) years from January 1, 1987 through December 31, 1996.

This contract renewal has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act, and no environmental document with be prepared.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing permit which expires by limitation of time on December 31, 1986, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract as defined in 36 CFR 51.5.

The Secretary will consider and evaluate all proposals reveived as a result of this notice. Any proposal, including that of the existing concessioner, must be postmarked or hand-delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Interested parties should contact the Regional Director, Western Regional Office, 450 Golden Gate Avenue, San Francisco, California 94102, for information as to the requirements of the proposed contract.

Dated: April 8, 1986.

W. Lowell White,

Acting Regional Director, Western Region.

[FR Doc. 86-10151 Filed 5-6-86; 8:45 am]

BILLING CODE 4310-70-M

Environmental Impact Statement Preparation for Mining in Three National Park Service Units in Alaska

AGENCY: Nationa Park Service, Interior.

ACTION: Notice of Intent.

SUMMARY: The National Park Service (NPS) is beginning preparation of environmental impact statatements (EIS) for three national parks and preserves in the State of Alaska. The affected NPS units are Denali National Park and Preserve, Wrangell-St. Elias National Park and Preserve, and Yukon-Charley Rivers National Preserve. The purpose of the environmental impact statements is to evaluate the management of mineral development activities within these parks and to assess the cumulative environmental effects of mining operations on park resources. These studies will be used to guide future management of mineral operations in the three units.

From previsous studies and observations over the last few years the NPS has become increasingly aware of and concerned about the combined effects of several mining operations on park resources. The proposed EIS's have been designed to address these concerns by evaluating the cumulative effects of all past, present, and reasonably forseeable future mining and mineral development activities in each park. From this analysis of potential maximum impacts under current regulations, alternative mineral activity management proposals will be developed. A proposed action will be selected comprised of a mineral management plan which provides guidance to the affected park unit for the management of mineral activities and a cumulative environmental impact analysis to which future environmental assessments on specific mining proposals can be tiered. In addition, these environmental impact statements will meet the requirements imposed by the U.S. District Court pursuant to the injunction of July 22, 1985, as amended on December 4, 1985 (Northern Alaska Environmental Center v. Hodel, Case No J85-009 CIV).

Interested groups, organizations, individuals, and government agencies will be kept informed of the progress of the efforts and any proposals developed. Scoping meetings will be scheduled with interested parties to solicit input regarding cumulative environmental impacts from mining operations on park resources and to identify major issues of concern. Those not interested in attending a scoping meeting are encouraged to submit their ideas and suggestions in writing to the address below, so that they may be considered in preparation of the environmental impact statements.

FOR FURTHER INFORMATION CONTACT:

Floyd Sharrock, Chief of Land Resources, National Park Service, Alaska Region, 2525 Gambell St., Room 107, Anchorage, Alaska 99503-2892, Telephone: (907) 271-2618 or (907) 271-2690.

Dated: April 28, 1986.

Boyd Evison,

Regional Director, Alaska Region.

[FR Doc. 86-10220 Filed 5-6-86; 8:45 am]

BILLING CODE 4310-70

Kobuk Valley National Park Subsistence Resoruce Commission and Cape Krusenstern National Monument Subsistence Resource Commission; Meeting

AGENCY: National Park Service, Alaska Region, Interior.

ACTION: Joint Meeting of the Kobuk Valley National Park Subsistence Resource Commission and Cape Krusenstern National Monument Subsistence Resource Commission.

SUMMARY: The Alaska Regional Office of the National Park Service announces a forthcoming meeting of the Cape Krusenstern National Monument and Kobuk Valley National Park Subsistence Resource Commissions. The following agenda items will be discussed:

1. Discussion of Resolution #86-001.
2. Subsistence Management in the parks.
3. National Park Service enforcement policies for commercial and subsistence activities.
4. National Park Service general management plan.
5. Review of federal/state game regulations.

DATE: The meeting will begin at 9:00 a.m. on June 6, 1986, and will conclude at 5:00 p.m. on June 6, 1986.

ADDRESS: The meeting will be held in the NANA Conference Room, Drift Inn Building, Kotzebue, Alaska.

FOR FURTHER INFORMATION CONTACT:

Mack Shaver, Superintendent, Northwest Alaska Areas, P.O. Box 287, Kotzebue, Alaska 99752.

SUPPLEMENTARY INFORMATION: The Cape Krusenstern National Monument and Kobuk Valley National Park Subsistence Resource Commissions are authorized under Title VIII, section 808, of the Alaska National Interest Lands Conservation Act Pub. L. 96-487.

Dated: April 28, 1986.

M. V. Finley,

Acting Regional Director, Alaska Region.

[FR Doc. 86-10219 Filed 5-6-86; 8:45 am]

BILLING CODE 4310-70-M

National Capital Memorial Advisory Committee Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the National Capital Memorial Advisory Committee will be held on Thursday, May 22, 1986, at 1:00 p.m., in the Meeting Room of the National Capital Planning Commission, 1325 G Street, NW., Washington, DC.

The Committee was established, by the Secretary of the Interior, for the purpose of preparing and recommending to the Secretary broad criteria, guidelines and policies for memorializing persons and events on Federal lands in the National Capital Region (as defined in the National Capital Planning Act of 1952, as amended), through the media of monuments, memorials and statues. It is to examine each memorial proposal for adequacy and appropriateness, make recommendations to the Secretary with respect to site location on Federal land in the National Capital Region and to serve as an information focal point for those seeking to erect memorials on Federal land in the National Capital Region.

The members of the Committee are as follows:

William Penn Mott, Chairman, Director, National Park Service, Washington, DC

Glen Urquhart, Chairman, National Capital Planning Commission, Washington, DC

George H. White, Architect of the Capitol, Washington, DC

Andrew J. Goodpaster, Chairman, American Battle Monuments Commission, Washington, DC

J. Carter Brown, Chairman, Commission of Fine Arts, Washington, DC

Marion S. Barry, Jr., Mayor of the District of Columbia, Washington, DC

William Sullivan, Commissioner, Public Buildings Service, Washington, DC.

The purpose of the meeting will be to review the following memorial legislative proposals and other matters pertaining to memorials.

1. H.J. Res. 463—Establishment of a memorial to honor members of the American Press and other news media who have been killed as a result of hostilities while covering a war or other armed conflict.

2. H.R. 3764—Establishment of a memorial to honor Native American members of the Armed Forces who served during periods of war or national conflict in defense of our nation.

3. H.J. Res. 504—Establishment of a memorial to honor America's astronauts.

4. H.R. 3765—Establishment of a memorial to honor Hispanic American members of the Armed Forces who served during periods of war or national conflict in defense of our nation.

5. H.R. 3829—To establish an American Slavery Memorial Council and to provide for the construction of a permanent museum memorializing the victims of slavery.

6. H.R. 4378—To govern the establishment of commemorative works within the National Capital Region of the National Park System.

7. H.R. 4467—Establishment of a "Peace Garden".

Also, the Committee will review its "Criteria and Guidelines" which were published in the **Federal Register** on April 1, 1985, Vol. 50, No. 62).

Persons who wish to file a written statement or testify at the meeting or who want further information concerning the meeting may contact Mr. John G. Parsons, Associate Regional Director, Land Use Coordination, National Capital Region, at 202-426-7750. Minutes of the meeting will be available for public inspection four weeks after the meeting at the Office of Land Use Coordination, National Capital Region, Room 206, 1100 Ohio Drive, SW., Washington, DC 20242.

Dated: April 28, 1986.

Manus J. Fish, Jr.,

Regional Director, National Capital Region.

[FR Doc. 86-10221 Filed 5-6-86; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731-TA-199 (Final)]

Certain Dried Salted Codfish From Canada

AGENCY: International Trade Commission.

ACTION: Dismissal of a request to institute a section 751(b) review investigation concerning affirmative determination in investigation No. 731-TA-199 (Final).

SUMMARY: The Commission determines, pursuant to section 751(b) of the Tariff Act of 1930 (19 U.S.C. 1675(b)) and rule 207.45 of the Commission's rules (19 CFR 207.45), that the petition does not show changed circumstances sufficient to warrant institution of an investigation to review the Commission's affirmative determination in investigation no. 731-TA-199 (Final), regarding certain dried salted codfish from Canada provided for in item 111.22 of the Tariff Schedules of the United States.

SUPPLEMENTARY INFORMATION: On June 27, 1985, the Commission determined that the establishment of an industry in the United States was materially retarded by reason of imports from Canada of certain dried heavy salted codfish which had been found to be sold at less than fair value (LTFV).

On July 8, 1985, the Department of Commerce published notice of the issuance of an Antidumping Duty Order in the **Federal Register** (50 FR 27836).

On February 6, 1986, the Commission received a request to review its affirmative determination in investigation No. 731-TA-199 (Final). The request was filed pursuant to section 751 (b) by the law firm of Freeman, Wasserman and Schneider on behalf of BMT Commodity Corp., New York, NY, a domestic buyer of dried salted codfish from Canada, and Delca Distributors, Inc., San Juan, P.R., its wholly owned subsidary which sells the salted codfish product.

On February 28, 1986, the Commission published a notice in the **Federal Register** (51 FR 7136) requesting public comment concerning whether the following alleged changed circumstances were sufficient to warrant institution of a review investigation: (1) Codfish Corp., the only known potential producer, ceased prodution in November 1984, has not recommenced production, and filed for bankruptcy on November 18, 1985, (2) the continuing unavailability of a domestic source of supply has resulted in American consumers paying higher prices for imported codfish as a result of the dumping duties and in a decline in demand for codfish in Puerto Rico as the competitive gap widens between dried salted codfish and other less expensive sources of protein such as chicken and pork, and (3) even if Codfish Corp. were producing, it could not attain the level of production necessary to be a viable producer.

The Commission received comments supporting the institution of the investigation from Freeman, Wasserman and Schneider, counsel for the petitioner; from the Canadian Embassy; the Fisheries Council of Canada on behalf of Canadian producers and exporters of dried salted codfish; and Worldwide Fish Products, Inc., a U.S. importer/exporter of fish products. Comments opposing institution of the

investigation were received from Patton, Boggs & Blow, counsel for Codfish Corp., Ponce, P.R., the petitioner in investigation No. 731–TA–199.

After review of the request for review and the comments received, the Commission has determine, pursuant to 19 U.S.C. 1675(b) and 19 CFR 207.45, that the request does not show changed circumstances sufficient to warrant institution of a review investigation regarding dried salted codfish from Canada.

The petition states Codfish Corp. ceased production in November 1984, filed for bankruptcy on November 18, 1985, and had not recommenced production at the time of the filing of the petition on February 6, 1986. It is true that the Codfish Corp. ceased production and filed for reorganization under the bankruptcy law, as alleged. However, Codfish Corp. recommenced production prior to the filing of the petition for a review investigation and is currently producing dried salted codfish at its plant in Puerto Rico.

The petition alleges that the nonavailability of a domestic source of supply and the imposition of dumping duties has resulted in consumers paying higher prices for imported codfish. An increase in the price of an imported product is not an unexpected result of the issuance of a dumping order and is not, of itself, a changed circumstance sufficient to warrant instituting a review investigation.

The petition also alleges that even if Codfish Corp. were producing, it could not attain the level of production necessary to be a viable producer. The question of Codfish Corp.'s viability was before the Commission at the time of its final determination. Allegations concerning the issue of whether or not Codfish Corp. can attain a level of production necessary to be a viable producer do not raise changed circumstances sufficient to warrant institution of a review investigation.

For the foregoing reasons, the Commission has determined that the petition does not show changed circumstances sufficient to warrant institution of a review investigation and has, therefore, dismissed the petition.

FOR FURTHER INFORMATION CONTACT: Vera Libeau, (202–523–0368) or David Coombs (202–523–1376), Office of Investigations, U.S. International Trade Commission, 701 E Street, NW., Washington, DC 20436.

By order of the Commission.

Issued: April 29, 1986.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–10235 Filed 5–6–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–154]

Certain DOT Matrix Line Printers and Components Thereof; Provisional Acceptance of Joint Motions for Modification of Consent Order Agreement and for Issuance of a Consent Order; Referral to the Chief Administrative Law Judge for Issuance of a Recommended Determination

AGENCY: International Trade Commission.

ACTION: Provisional acceptance of joint motions for modification of consent order agreement and for issuance of a consent order (Motion No. 154–32) and referral to the Chief administrative law judge (ALJ) for issuance of a recommended determination.

SUMMARY: The Commission has determined to provisionally accept the joint motions for modification of the consent order agreement and for issuance of a consent order in the above-captioned case and to refer the motions to the Chief ALJ for issuance of a recommended determination.

FOR FURTHER INFORMATION CONTACT: Carolyn E. Galbreath, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202 523–0143.

SUPPLEMENTARY INFORMATION: On July 23, 1985, the Commission issued an action and order denying the Joint Motion to Withdraw the Motion for Modification of Consent Order Agreement and to Maintain the Underlying Settlement Agreement as Confidential Business Information (Motion No. 154–31). 50 FR 31049 (July 31, 1985). Among other provisions, the action and order stated that any motions to modify the terms of the consent order agreement, and thereby the terms of the Commission's consent order, should be made in accordance with § 211.57 of the Commission's Rules of Practice and Procedure (19 U.S.C. 211.57).

Accordingly, on December 24, 1985, the parties filed Joint Motions to Withdraw the "Motion for Modification of Consent Order Agreement and for Declassification of Information Under Protective Order," for Modification of Consent Order Agreement, and for Issuance of a Consent Order (Motion No. 154–32).

Authority for this action is found in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rule 211.57 (19 CFR 211.57).

Copies of the Commission's action and order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 am to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161.

Hearing-impaired individuals are advised that information concerning this investigation can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Issued: May 2, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–10236 Filed 5–6–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–288 (Final)]

Erasable Programmable Read Only Memories (EPROMS) From Japan

AGENCY: International Trade Commission.

ACTION: Revised schedule for the subject investigation.

EFFECTIVE DATE: April 23, 1986.

FOR FURTHER INFORMATION CONTACT: Judith C. Zeck (202–523–0339), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202–724–0002.

SUPPLEMENTARY INFORMATION: On March 17, 1986, the Commission instituted the subject investigation and established a schedule for its conduct (51 FR 11358, Apr. 2, 1986). Subsequently, the Department of Commerce extended the date for its final determination in the investigation from May 27, 1986 to July 30, 1986. The Commission, therefore is revising its schedule in the investigation to conform with Commerce's new schedule.

The Commission's new schedule for the investigation is as follows: requests to appear at the hearing must be filed with the Secretary to the Commission not later than July 23, 1986; the prehearing conference will be held in room 117 of the U.S. International Trade Commission Building at 9:30 a.m. on July 25, 1986; the public version of the prehearing staff report will be placed on the public record on July 18, 1986; the

deadline for filing prehearing briefs is August 1, 1986; the hearing will be held in room 331 of the U.S. International Trade Commission Building on August 5, 1986; and the deadline for filing all other written submissions, including posthearing briefs, is August 14, 1986.

For further information concerning this investigation see the Commission's notice of investigation cited above and the Commission's Rules of Practice and Procedure, Part 207, Subparts A and C (19 CFR Part 207), and part 201, subparts A through E (19 CFR Part 201).

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.20 of the Commission's rules (19 CFR 207.20).

Issued: April 28, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-10237 Filed 5-6-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-183]

Certain Indomethacin; Commission Decision Not To Review Initial Determination Terminating Respondent on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Nonreview of an initial determination (ID) terminating respondent Lederle Laboratories (Lederle) on the basis of a settlement agreement.

SUMMARY: The U.S. International Trade Commission has determined not to review an ID (Order No. 43) terminating respondent Lederle in the above-captioned investigation on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Marcia H. Sundeen, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-0480.

SUPPLEMENTARY INFORMATION: On Jan. 23, 1986, complainant Merck & Co., Inc. (Merck) and respondent Lederle filed a joint motion (Motion No. 183-77"C") to terminate Lederle as a respondent in the investigation on the basis of a settlement agreement. The presiding administrative law judge issued an ID granting the motion for termination on April 7, 1986.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rule 210.53 (19 CFR 210.53). Notice of the ID was published in the **Federal Register** of April 16, 1986 (51 FR 12938). No petitions for review of the ID were received, nor were any comments received from other Government agencies or the public.

Copies of the nonconfidential version of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161.

Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

Issued: May 2, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86-10238 Filed 5-6-86; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 701-TA-249 (Final) and 731-TA-262, 264, and 265 (Final)]

Iron Construction Castings From Brazil, India, and the People's Republic of China

Determinations

On the basis of the record,[1] developed in the subject countervailing duty investigation, the Commission determines, [2] [3] pursuant to section 705(b) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)), that an industry in the United States is materially injured by reason of imports from Brazil of heavy iron construction castings,[4] provided for in item 657.09 of the Tariff Schedules of the United States (TSUS), which have been found by the Department of Commerce to be subsidized by the Government of Brazil.

The Commission further determines,[5] pursuant to section 735(b) of Tariff Act of 1930 (19 U.S.C. 1673(b)), that an industry in the United States is materially injured by reason of imports from Brazil, India, and the People's Republic of China (China) of heavy iron construction castings and that an industry in the United States is threatened with material injury [6] [7] by reason of imports from Bazil, India, and China of light iron construction castings,[8] provided for in item 657.09 of the TSUS, which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV) (investigations Nos. 731-TA-262, 264, and 265, respectively). The Commission further finds that it would not have found material injury but for the suspension of liquidation of entries of light iron construction castings.

Background

The Commission instituted the countervailing duty investigation effective August 12, 1985, following a preliminary determination by the Department of Commerce that imports of heavy iron construction castings from Brazil were being subsidized within the meaning of section 701 of the Act (19 U.S.C. 1671). The Commission instituted the antidumping investigations effective October 28, 1985, following preliminary determinations by the Department of Commerce that imports of iron construction castings from Brazil, India, and China were being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notices in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notices in the **Federal Register** of October 2, 1985 (50 FR 40243) and November 15, 1985 (50 FR 47287). The hearing for all of these investigations was held in Washington, DC, on January 16, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in these investigations to the Secretary of Commerce on April 25,

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[1] The record is defined in section 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR (207.2(i)).

[2] Vice Chairman Liebeler dissenting.

[3] Commissioner Brunsdale finds threat of material injury. She further determines that she would not have found material injury but for the suspension of liquidation of entries of heavy iron construction castings.

[4] For the purposes of this investigation, the term heavy iron construction castings is limited to manhole covers, rings and frames; catch basin grates and frames; and cleanout covers and frames.

[5] Vice Chairman Liebeler dissenting with respect to heavy iron construction castings.

[6] Chairwoman Stern and Commissioner Lodwick find that a domestic industry is materially injured by reason of imports of light construction castings.

[7] Commissioner Brunsdale finds threat of material injury with respect to both heavy and light iron construction castings. She further determines that she would not have found material injury but for the suspension of liquidation of entries of heavy and light iron construction castings.

[8] For the purposes of these investigations, the term light iron construction castings is limited to valve, service, and meter boxes.

1986. The views of the Commission are contained in USITC Publication 1838 (April 1986), entitled "Iron Construction Castings from Brazil, India, and the People's Republic of China: Determination of the Commission in Investigations Nos. 701–TA–249 and 731–TA–262, 264, and 265 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

Issued: April 30, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–10239 Filed 5–6–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–229]

Certain Nut Jewelry and Parts Thereof; Commission Decision Not To Review Initial Determination Granting Motion for Summary Determination

AGENCY: International Trade Commission.

ACTION: Nonreview of an initial determination granting a motion for summary determination of no violation of section 337 of the Tariff Act of 1930 as to one respondent.

SUMMARY: Notice is hereby given that the Commission has determined not to review the administrative law judge's initial determination (ID) granting the motion of respondent Betty's Import & Export, Inc. for summary determination that it has not violated section 337 of the Tariff Act of 1930 in the above captioned investigation.

FOR FURTHER INFORMATION CONTACT: Randi S. Field, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0375.

SUPPLEMENTARY INFORMATION: The authority for the Commission's disposition of this matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in § 210.53 of the Commission's Rules of Practice and Procedure (19 CFR 210.53). On March 4, 1986, respondent Betty's Import & Export, Inc., moved for summary determination to terminate the investigation as to it because it allegedly had not violated section 337. The complainant did not oppose this motion, and the motion was supported by the Commission investigative attorney. The presiding administrative law judge issued an ID granting the motion for summary determination. No petitions for review or comments from Government agencies or the public were received.

Copies of the administrative law judge's ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Issued: May 1, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–10240 Filed 5–6–86; 8:45 am]

BILLING CODE 7020–02–M

[Investigations Nos. 701–TA–271 (Preliminary) and 731–TA–318 (Preliminary)]

Oil Country Tubular Goods From Israel

Determinations

On the basis of the record [1] developed in the subject investigations, the Commission determines,[2] pursuant to section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)), that there is a reasonable indication that an industry in the United States is materially injured [3] by reason of imports from Israel (investigation No. 701–TA–271 (Preliminary)) of oil country tubular goods,[4] provided for in items 610.32, 610.37, 610.39, 610.40, 610.42, 610.43, 610.49, and 610.52 of the Tariff Schedules of the United States, which are alleged to be subsidized by the Government of Israel.

Further, the Commission determines,[2] pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured [3] by reason of imports from Israel (investigation No. 731–TA–318 (Preliminary)) of oil country tubular goods,[4] provided for in items 610.32, 610.37, 610.39, 610.40, 610.42, 610.43, 610.49, and 610.52 of the Tariff Schedules of the United States, which are alleged to be sold in the United States at less than fair value (LTFV).

Background

On March 12, 1986, a petition was filed with the Commission and the Department of Commerce by Lone Star Steel Co., Dallas, TX and CF&I Steel Corp., Pueblo, CO, alleging that an industry in the United States is materially injured and threatened with material injury by reason of subsidized imports of oil country tubular goods from Israel, and by reason of imports of oil country tubular goods from Israel which are allegedly being sold in the United States at less than fair value. Accordingly, effective March 12, 1986, the Commission instituted preliminary investigations Nos. 701–TA–271 (Preliminary) and 731–TA–318 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of March 19, 1986 (51 FR 9540). The conference was held in Washington, DC, on April 7, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on April 28, 1986. The views of the Commission are contained in USITC Publication 1840 (April 1986), entitled "Oil Country Tubular Goods from Israel: Determinations of the Commission in Investigations Nos. 701–TA–271 (Preliminary) and 731–TA–318 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

Issued: April 29, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–10241 Filed 5–6–86; 8:45 am]

BILLING CODE 7020–02–M

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[1] The record is defined in sec. 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Vice Chairman Liebeler determines that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury by reason of imports from Israel which are alleged to be subsidized or to be sold at less than fair value.

[3] Chairwoman Stern determines that there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury.

[4] For purposes of these investigations, the term "oil country tubular goods" includes drill pipe, casing and tubing for drilling oil or gas wells, of carbon or alloy steel, whether such articles are welded or seamless, whether finished or unfinished, and whether or not meeting American Petroleum Institute (API) specifications, provided for in items 610.32, 610.37, 610.39, 610.40, 610.42, 610.43, 610.49, and 610.52 of the Tariff Schedules of the United States.

[Investigation No. 337-TA-233]

Certain Pharmaceutical Closures; Commission Decision Not To Review Initial Determination Granting Motion To Terminate Investigation as to a Respondent on the Basis of a Settlement Agreement

AGENCY: U.S. International Trade Commission.

ACTION: Nonreview of an initial determination terminating the investigation as to respondent Pohl on the basis of a settlement agreement.

SUMMARY: Notice is hereby given that the Commission has determined not to review an initial determination (ID) (Order No. 7) granting joint motion to terminate the investigation as to respondent Pohl on the basis of a settlement agreement.

FOR FURTHER INFORMATION CONTACT: Carolyn E. Galbreath, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0143.

SUPPLEMENTARY INFORMATION: The authority for disposition of the matter is contained in section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in Commission rule 210.53 (19 CFR 210.53).

On November 8, 1985, in response to a complaint filed by the West Company (West), the Commission instituted an investigation of allegations of unfair methods of competition and unfair acts in the importation and sale of certain pharmaceutical closures pursuant to section 337 of the Trade Act of 1930. Franz Pohl Metall-und Kunststoffwarenfabrik GmbH (Pohl) was named as a respondent on the basis of allegations of infringement of complainant West's common-law trademark and trade dress in violation of the Lanham Act, 15 U.S.C. 1125.

On March 9, 1986, West and Pohl entered into a settlement agreement. Certain contingencies in the settlement agreement were fulfilled on March 14, 1986. On March 21, 1986, pursuant to Commission rule 210.52 (19 CFR 210.51), West and Pohl filed a joint motion to terminate the investigation as to respondent Pohl on the basis of the settlement agreement (Motion No. 233–6). On April 2, 1986, the investigative attorney filed a response in support of the motion. On April 7, 1986, the investigative law judge issued an ID granting a joint motion to terminate. The Commission did not receive any petitions for review of the ID or any Government agency or public comments.

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161.

Issued: May 2, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–10242 Filed 5–6–86; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-238]

Certain Vacuum Cleaner Foot Switches

AGENCY: International Trade Commission.

ACTION: Nonreview of an initial determination granting a motion to terminate the investigation.

SUMMARY: On March 12, 1986, complainant The Scott & Fetzer Company (S&F) moved to terminate the investigation based on settlement agreement with respondent Buckeye Vacuum Cleaner Supply Company (Buckeye). S&F supplemented its motion on March 25, 1986. On April 1, 1986, the presiding administrative law judge (ALJ) issued an initial determination (ID) granting the motion to terminate the investigation. The ID also terminated the investigation with respect to the only other respondent, Torii Electric Co. (Torii). Torii did not participate in the investigation. Pursuant to section 337 of the Tariff Act of 1930, the Commission determined not to review the ID. The Commission's decision terminates the entire investigation.

FOR FURTHER INFORMATION CONTACT: Kristian Anderson, Esq., Office of the General Counsel, U.S. International Trade Commission, Washington, DC 20436, telephone 202–523–0074.

SUPPLEMENTARY INFORMATION: This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and Commission rules 210.51 and 210.53 (19 CFR §§ 210.51 and 210.53).

Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161.

Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002

Issued: May 1, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–10243 Filed 5–6–86; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-271 Through 273 (Final)]

Certain Welded Carbon Steel Pipes and Tubes From India, Taiwan, and Turkey

Determinations

On the basis of the record [1] developed in investigation No. 731–TA–271 (Final) the Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is materially injured, or threatened with material injury, by reason of imports from India of standard pipes and tubes,[3] which have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV). Chairwoman Paula Stern and Commissioners Alfred E. Eckes and Seeley G. Lodwick determine that an industry in the United States is materially injured by reason of the subject imports. Commissioner David B. Rohr determines that a domestic industry is threatened with material injury by reason of the subject imports. Commissioner Rohr further determines, pursuant to section 735(b)(4)(B) of the Act (19 U.S.C. 1673(b)(4)(B)), that he would not have found material injury but for any suspension of liquidation of entries of the subject merchandise.

The Commission also determines, on the basis of the record developed in investigation No. 731–TA–272 (Final),[4]

[1] The record is defined in § 207.2(i) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(i)).

[2] Vice Chairman Susan W. Liebeler and Commissioner Anne E. Brunsdale make negative determinations.

[3] For purposes of these investigations, the term "standard pipes and tubes" covers welded carbon steel pipes and tubes of circular cross section, 0.375 inch or more but not over 16 inches in outside diameter, provided for in items 610.3231, 610.3234, 610.3241, 610.3242, 610.3243, 610.3252, 610.3254, 610.3256, 610.3258, and 610.4925 of the Tariff Schedules of the United States Annotated (TSUSA).

[4] Commissioners Alfred E. Eckes and David B. Rohr dissent, finding threat of material injury. They would not have found material injury but for any suspension of liquidation of entries of the subject merchandise.

pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Taiwan of line pipes and tubes,[5] which have been found by the Department of Commerce to be sold in the United States at LTFV.

The Commission also determines, on the basis of the record developed in investigation No. 731–TA–273 (Final),[6] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry is the United States in materially injured, or threatened with material injury, by reason of imports form Turkey of standard pipes and tubes, which have been found by the Department of Commerce to be sold in the United States at LTFV. Chairwoman Paula Stern and Commissioners Alfred E. Eckes and Seeley G. Lodwick determine that an industry in the United States is materially injured by reason of the subject imports. Commissioner David B. Rohr determines that a domestic industry is threatened with material injury by reason of the subject imports. Commissioner Rohr further determines, pursuant to section 735(b)(4)(B) of the Act (19 U.S.C. 1673d(b)(4)(B)), that he would not have found material injury but for any suspension of liquidation of entries of the subject merchandise.

The Commission finally determines, on the basis of the record developed in investigation No. 731–TA–273 (Final),[7] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is not materially injured or threatened with material injury, and the establishment of an industry in the United States is not materially retarded, by reason of imports from Turkey of line pipes and tubes, which have been found by the Department of Commerce to be sold in the United States at LTFV.

Background

The Commission instituted these investigations following preliminary determinations by the Department of Commerce that imports of certain welded carbon steel pipes and tubes from India, Taiwan, and Turkey were being sold at LTFV within the meaning of section 731 of the Act (19 U.S.C 1673). Notice of the institution of the Commission's investigations and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of January 24, 1986 (51 FR 3272). The hearing was held in Washington, DC, on March 13, 1986, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on April 29, 1986. The views of the Commission are contained in USITC Publication 1839 (April 1986), entitled "Certain Welded Carbon Steel Pipes and Tubes from India, Taiwan and Turkey: Determinations of the Commission in Investigations Nos. 731–TA–271 through 273 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations.

Issued: April 30, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–10244 Filed 5–6–86; 8:45 am]

BILLING CODE 7020–02–M

[5] For purposes of these investigations, the term "line pipes and tubes" covers welded carbon steel pipes and tubes of circular cross section, with walls not thinner than 0.065 inch, 0.375 inch or more but not over 16 inches in outside diameter, conforming to API specifications for line pipe, provided for in items 610.3208 and 610.3209 of the TSUSA.

[6] Vice Chairman Susan W. Liebeler and Commissioner Anne E. Brunsdale make negative determinations.

[7] Commissioners Alfred E. Eckes and David B. Rohr dissent, finding threat of material injury. They would not have found material injury but for any suspension of liquidation of entries of the subject merchandise.

[Investigation No. 337–TA–246]

Certain Xenon Lamp Dissolver Slide Projectors and Components Thereof; Investigation

AGENCY: International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on April 3, 1986, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Bergen Expo Systems, Inc., 1088 Main Avenue, Box 2109, Clifton, New Jersey 07015. A supplement to the complaint was filed on April 18, 1986. The complaint, as supplemented, alleges unfair methods of competition and unfair acts in the importation of certain xenon lamp dissolver slide projectors and components thereof into the United States, and in their sale, by reason of alleged (1) direct, contributory, and induced infringement of claims 1, 2, 6–9, and 13 of U.S. Letters Patent 4,158,491; and (2) failure to mark the country of origin. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation and, after a full investigation, issue a permanent exclusion order and permanent cease and desist orders.

FOR FURTHER INFORMATION CONTACT: Steven H. Schwartz, Esq., or Gary Rinkerman, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–523–4877 and 202–523–1273, respectively.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

Scope of Investigation

Having considered the complaint, the U.S. International Trade Commission, on April 29, 1986, ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain xenon lamp dissolver slide projectors and components thereof into the United States, or in their sale, by reason of alleged (1) direct, contributory, and induced infringement of claims 1, 2, 6–9, and 13 of U.S. Letters Patent 4,158,491; and (2) failure to mark country of origin, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Bergen Expo Systems, Inc., 1088 Main Avenue, Box 2109, Clifton, New Jersey 07015.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Hokushin Optical Co., 30–1, 3–chome, Shimomaruko, Ohta-ku, Tokyo, Japan
D.O. Industries, Inc., 317 East Chestnut Street, East Rochester, New York 14445.

(c) Steven H. Schwartz, Esq., and Gary Rinkerman, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 701 E Street NW., Room 124 and Room 128, respectively, Washington, DC 20436, shall be the Commission investigative attorneys, a party to this investigation; and

(3) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's Rules of Practice and Procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules (19 CFR 201.16(d) and 210.21(a)), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, DC 20436, telephone 202–523–0471. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

Issued: May 1, 1986.

By order of the Commission.

Kenneth R. Mason,

Secretary.

[FR Doc. 86–10245 Filed 5–6–86; 8:45 am]

BILLING CODE 7020–02–M

INTERSTATE COMMERCE COMMISSION

[Docket No. AB–55 (Sub-176X)]

Seaboard System Railroad, Inc., Exemption; Abandonment in Anderson County, SC.

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Commission exempts from the requirements of prior approval under 49 U.S.C. 10903, *et seq.*, the abandonment of 1.76 miles of railread by Seaboard System Railroad, Inc. at or near Anderson, SC, subject to standard labor protective conditions.

DATES: This exemption is effective on June 5. 1986. Petitions to stay must be filed by May 17, 1986, and petitions for reconsideration must be filed by May 27, 1986.

ADDRESS: Send pleadings referring to Finance Docket No. AB–55 (Sub-No. 176X) to:

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423
and

(2) Petitioner's represenative; Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32202.

FOR FURTHER INFORMATION CONTACT: Louis E. Gitomer, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5400.

Decided: April 29, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

James H. Bayne,

Secretary.

[FR Doc. 86–10185 Filed 5–6–86; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF LABOR

Employment and Training Administration

Job Training Partnership Act: Semiannual Status Report for Titles II–A and III Programs, and Title II–B Summer Performance Report

AGENCY: Employment and Training Administration

ACTION: Notice of Revised Seniannual Status Report for Titles II–A and III, and Title II–B Summer Performance Report.

SUMMARY: The Department of Labor is issuing semiannual reporting requirements for programs under Titles II–A and III of the Job Training Partnership Act, revising the previous annually—submitted JQSR, and issuing a new Title II–B Summer Performance Report which conbines former JQSR data on Title II–B enrollment and spending with data on the characteristics of participants served.

The Title II–A and III report has also been revised to provide needed detail on the use of the 22% State setaside funds under Title II–A, and to present separate Statewide enrollment and spending information for Title III Displaced Worker formula programs, and Title III National Reserve programs.

EFFECTIVE DATE: July 1, 1986.

FOR FURTHER INFORMATION CONTACT: Mr. Robert N. Colombo, Telephone (202) 376–6093.

SUPPLEMENTARY INFORMATION: On January 14, 1986, a document was published in the **Federal Register** at Volume 51, pages 1569–76, announcing proposed replacement of the Job Training Partnership Act quarterly status report (referred to as the JQSR) with a semiannual report (referred to as the JSSR). Since Program Year 1984, submission on the JQSR has been required only annually; in proposing revisions to the report content, the report was retitled to conform with scheduled submissions. Also, the document proposed the initiation of a once-per-year report on the statewide characteristics of participants served by the Title II–B Summer Program. Interested parties were invited to submit written comments through February 3, 1986. At the same time, the proposed revisions were forwarded to the Office of Management and Budget (OMB) for review pursuant to the Paperwork Reduction Act. The purpose of this notice is to advise the system of the nature of the comments received and the final action taken pursuant to the OMB review.

A. Authority and Purpose of the JTPA Semiannual Status Report and Title II–B Summer Performance Report Requirements.

Reporting instructions are necessary to comply with the Job Training Partnership Act's (JTPA's) provisions regarding the Secretary's responsibilities and authorities for program recordkeeping and reportng as indicated below:

• *Section 165—Reporting, Recordkeeping, and Investigations.* This section authorizes the Secretary to direct recipients to maintain records of expenditure that are sufficient to permit the preparation of required reports. Also, each recipient is to maintain records of program performance in such a way as to enable it to submit report as required by the Secretary. Section 165 requires that all recipients and subrecipients design and utilize Management Information System (MIS) to facilitate compilation of statewide programmatic and financial data necessary for reporting purposes.

• *Section 169—Administrative Provisions.* The Secretary is directed at (d)(1) to submit an annual report to the Congress summarizing the achievements of JTPA programs. Such a report will necessarily depend on and include data on performance of the entire JTPA block grant to each State.

• *Section 301—Employment and Training Assistance for Dislocated Workers.* The Secretary is authorized to reallot any amount of a State's Title III allotment to the extent that the Secretary determines that the State will not be able to obligate the funds within one year of allotment.

The basis for determining the first general revision and extension of current March 1983 program reporting requirements included:

• The Department's review of the experience and performance of the JTPA system after the completion of the first full program year (PY 1984), with attention to those areas where there were important gaps in the Department's knowledge about how the system faired in meeting certain statutory requirements.

• The necessity for more up-to-date and detailed information for the Department in the context of the revised Federal budget process. The current era of fiscal restraint makes this information, its accuracy and timeliness critical to all actors in the process. Due to the enactment of the Balanced Budget and Emergency Deficit Control Act, the schedule for the development of the FY 1988 Budget has been moved up by approximately one month at all stages.

• Requests made for information on JTPA program enrollment and expediture during congressional oversight, which identified areas where the existing reporting data base and sample tracking studies did not provide a sufficient foundation for responding to inquiries.

B. Reasons for the Revisions

These revisions are being made for several reasons:

• The Department's decision to place Title II–A and Title III programs on a semiannual expenditure reporting basis resulted from a review of the present system indicating that many of the budget pressures now faced were not anticipated when an annual JQSR submission was authorized starting with PY 1984 §629.36 of March 15, 1983 *Regulations).* Since each JTPA program year is forward-funded, the last available PY annual report data which can be used to respond to inquiries from Congress during its budget review is presently two years prior to the program year under consideration. Implementation of semiannual reporting will update the data base by six months, and provide a more adequate basis for the Department's budget recommendations, and for review by all parties to the Federal budget process. Semiannual reporting and the addition of the proposed expenditure detail will also give the Department information on expenditure rates among States and programs under the Act.

• Currently, the Department has incomplete information on how States utilize funds under the four setasides defined by section 202(b) of the Act. Information on expenditure of, and actual uses for section 202(b)(2)(A) performance incentive/TA funds has been a recurring issue. The Department has no information from the JQSR on expenditure of the 8% education and 3% older worker setasides. Information on 6% funds has been partial, only. The Department receives no information on levels of praticipation under Title II–A 8% and 3% setside programs. Current annual JQSR data aggregates these participants with those statewide SDA programs.

• The Department is responding to field reviews and to Congressional oversight revealing that some States have experienced difficulty in satisfying the 40% youth expenditure requirement of section 203(b) of the Act, by incorporating a separate line in the JSSR to track this program area.

• In the interest of minimizing the reporting burden on States of proposed semiannual reports, it was decided to require submission of JSSR Section III, "Participation and Termination Summary", only once per Program Year in the JSSR submitted after the fourth quarter. The report required after the second quarter will include semiannual expenditure detail, only (Sections I and II of the JSSR format).

• The Department has clarified Title III reporting issues by breaking out State Formula and National Reserve Title III programs on the JSSR format. This will allow for more informed analysis of Title III expenditure and performance by State, Federal, and Congressional decisionmakers, in considering budget and grant award options, and in improving performance where actual expenditures for displaced worker training and services have lagged despite plans and contract obligations.

• It was decided to remove from the new JSSR the once-pay-per-PY information on Title II–B Summer Youth Employment and Training Programs (SYETP), submitted currently on the JQSR form, and move this data on program enrollment and spending to the new Statewide Characteristics Summer Report (SCSR) format proposed in the January 14, 1986 Register Notice. Accordingly, the Title II-B cloumn has been removed from the JSSR, and incorporated with the proposed SCSR's data onto a new form, entitled "JTPA Summer Performance Report" (referred to as the JSPR). The JSPR consists of a total of 21 items divided into Section I "Program Expenditure Summary," Section II "Statewide Participation Summary", and Section III "Characteristics Summary". The program expenditures summary includes the same reporting items for total Title II–B expenditures, and separate breakouts of training, participant support and administrative expenses as found on the March 1983 JQSR.

This corrects an error made in the January 14, **Federal Register** Publication, in which lines for reporting Title II–B training and participant support had been inadvertantly deleted.

C. Discussion of Comments

There were 20 letters of comment received within the comment period. Several additional comments received after the deadline were reviewed and considered to the extent possible. The position of the Department following review with OMB is indicated below and reflected in the reporting instructions as appropriate:

General Issues Raised by Comments on Program Reporting Changes

A large majority of commenters were strongly supportive of the proposed semiannual and summer reports, indicating that the information requested and frequency of reporting seemed reasonable and would not require major changes in State/SDA fiscal and management information systems. Several commenters mentioned specifically their past concerns that the Department and Congress had in fact insufficient information at the national level to give an accurate assessment of how the JTPA system was performing.

Four commenters urged the Department to standardize treatment of dual enrollments under separate JTPA titles in program reports. One suggestion offered has been adopted in a revised definition of participant. For enrollment reporting purposes, funds must be expended under both titles for services given an individual during the reporting period for that individual to be properly counted as a participant simultaneously under both titles. Instructions for reporting SDA enrollments under 78% funding, with separate reporting lines on the JSSR for 3% older worker and 8% state education setaside program enrollments, deal with the main possibility for double-counting under Title II-A.

Responding to requests for standardization, the definition of participant has been reworded to be identical for JSSR enrollment and JTPA Annual Status Report (JASR) purposes.

Two commenters recommended that the JSSR incorporate information on State obligation of funds, in addition to information on State expenditures. Since the Department does not require State plans for obligation of annual allocations, there is no way this information could be evaluated if collected. The Department recognizes that procurement and obligation cycles and procedures vary from State to State, and are often continuous during the Program Year for some types of training, (in on-the-job training, for example).

Due dates for the Title II-A and III JSSR and the once-per-Program Year Title II-B JSPR have been corrected in reporting instructions. The request of one State for extended reporting deadlines was considered carefully in light of the difficulties some States have experienced with collection of data from the substate level in order to make timely submissions. Although the Department will continue to review this issue, it does not at present see that there is sufficient latitude in the Department's own schedule in answering Congressional and budget information requests to change State report due dates. To clarify, the JSSR will be submitted twice per program year. The performance standard-related JASR will continue to be required after the close of each program year and does not substitute for an end-of-year JSSR enrollment and expenditure report.

Two commenters, including one that endorsed proposed reporting changes, did express about increased costs and complexity. Although a number of commenters indicated specifically that proposed reports would not require changes in management information systems currently used to administer their programs, the Department recognizes that in some cases systems revisions will be necessary. The Department believes that this Notice will provide adequate time for these changes to be designed using existing staff and resources prior to implementation in PY 1986.

Finally, one commenter cautioned against making projections from the mid-PY JSSR by a simple doubling method. The Department understands the impact of final SDA billings for fixed unit price contracts on second versus first half of year expenditure rates, and will take this and other expenditure trend data into account in making expenditure and budget projections from mid-year reports.

JSSR—Related Issues

One commenter termed the semiannual JSSR cycle "a step in the right direction", observing that "data which are not current do not enable us to make informed decisions". A number of commenters endorsed improvements in detail on the 22% setaside programs, particularly enrollment and expenditure on Title II-A 3% and 8% programs. Two commenters did, however, express concerns about 3% and 8% data and the use to which national compilations might be put. The Department is aware that these setaside programs operate under different goals and designs among the States and will not interpret the data using assumptions of a national prototype. This reporting is instituted to correct a situation where the Department had no measures of utilization, as it does for the rest of the States' Title II-A program. While within-state MIS requirements for setaside activities may vary as they do for SDA-78% activities, standard guidelines for national reporting purposes are provided by the JSSR instructions. One further clarification is that all funds expended under each setaside during the program year, including funds carried in from a prior year allocation, are reported as they would be on the 7% SDA reporting line.

Five commenters addressed 6% Title II-A performance incentives/technical assistance (TA) expenditure reporting. Again, to clarify treatment of prior-year carry-in, JSSR entries on line 7 (Offset Planning Figure Box) and line 8 (Accrued Expenditures of 6% Funds for Technical Assistance) will include 6% carry-in planned to be expended for TA during the Program Year, and actual expenditures for TA through the report period. As with the previous JQSR report, funds given to SDA's as incentive bonuses for meeting or exceeding performance standards are reported on SDA expenditure lines. Incentive funds spent in serving youth are also included in line 12 "Special Breakout of Total Program Expenditures for Youth". Reporting of 6% funds also raised questions regarding applicable JTPA requirements. Section 202(b)(3)(B) of the statute sets forth the purpose of, and basic methodology for making incentive grants to SDA's, indicating that if the full amount of this setaside is not needed for incentive grants, then the balance is to be expended for technical assistance. Administrative cost limitations for 6% funds are presented in 20 CFR 629.39(b), and (c), and (d) (March 15, 1983 *JTPA Regulations*). The new JSSR format will allow States and the Department for the first time to identify the uses to which 6% funds are put.

Two commenters raised points about reporting of Title II–A expenditures to serve youth, on line 12 of the JSSR. Instructions reference the "40%" requirement found in section 203(b) of the statute. While section 203 (c) defines youth as ages 16 through 21, section 205 (c)(1) authorizes youth ages 14 and 15 to be served by Exemplary Youth Programs. Expenditures to serve 14 and 15 year olds in these Special Title II–A programs should be include in the "Total Program Expenditures for Youth" breakout, line 12 on the JSSR form. This clarification conforms instructions for the JSSR 40% compliance measure with JASR instructions on reporting expenditures for performance standard purposes.

Several commenters welcomed the separation of State Title III Formula programs from Title III National Reserve Programs on the new JSSR format.

Summer Youth Reporting Issues

Nearly all commenters on proposed characteristics reporting for State Title II–B Summer Youth Employment and Training Programs believed that information on youth served will be of benefit to the program. Two commenters suggested the addition of characteristics categories for youth offender, and member of a household receiving welfare. Weighing the utility of the data elements proposed and the length of the characteristics list, the Department decided against increasing categories. State laws define juvenile offenders using varying criteria, and the category "Single Head of Household with Dependent Children Under 18" presently on the characteristics list measures many of the participants who come from households receiving welfare. Responding to commenters' notes, the reporting item "High School Graduate, or Equivalent" has been clarified.

Finally, several commenters inside the Department pointed out that the Title II–B column of the January 14 proposed JSSR showed expenditure reporting items for training and participant support blocked out. Since these reporting items had been deleted through an oversight and the Department has been requested to report this detail to Congress on each year's summer program under JTPA, the revised Title II–B JSPR format includes them under Section I. "Program Expenditures Summary".

D. Contingency Approval From OMB.

The authority for submission of the JTPA Semiannual Status Report (JSSR) for the initial six months of PY 1986 is contingent upon final approval and publication of the revision to 20 CFR 629.36 regarding frequency of reports. (The revision was published "proposed" in the **Federal Register** on February 7, 1986.)

Paperwork Reduction Act of 1980

The appendix to this notice has been reviewed in accordance with the Paperwork Reduction Act by the Office of Management and Budget and approved for the period through December 31, 1988 (OMB No. 1205–0200).

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

Roger D. Semerad,

Assistant Secretary of Labor.

Appendix—JTPA Semiannual Status Report (JSSR)

1. *Purpose.* The JTPA JSSR displays summary cumulative data on participation and program costs. The information will be used to determine levels of program service and expenditures.

These reporting requirements have been approved by the Office of Management and Budget (OMB) according to the Paperwork Reduction Act of 1980 under OMB Approval No. 1205–0200.

2. *General Instructions.*

a. A single JSSR covering Title II–A and Title III programs will be submitted by the Governor on a statewide basis. Entries are to be *cumulative* for the specified program year to date. Each report period begins on the start date of each JTPA program year, as stated in Section 161 of the Act. Reports are due in the National Office no later than 45 days after the end of the second and fourth quarters (i.e., submitted no later than February 15 and August 15). On the end-of-second quarter report, only Sections I and II of the JSSR must be completed (please see Instructions which follow).

b. Two copies of *each* JSSR are to be provided to:

Employment and Training Administration, U.S. Department of Labor,
ATTENTION: TVSR—Room S–5306 200 Constitution Avenue, NW.
Washington, DC 20210

c. An additional copy of *each* JSSR is to be provided to the appropriate Regional Administrator for Employment and Training in the DOL Regional Office that includes the State in which the JTPA recipient is located.

3. *Fascimile of Form.* See the following page.

4. *Instructions for Completing the JTPA Semiannual Status Report.*

a. *Recipient's Name and Address.* Enter the name and address of the recipient.

b. *Recipient's Grant Number.* Enter the recipient's grant number, as assigned by ETA in a separate issuance.

BILLING CODE 4510-30-M

JTPA Semiannual Status Report

Approved for use through 12/31/88 OMB No. 1205-0200

a. RECIPIENT'S NAME AND ADDRESS	b. RECIPIENT'S GRANT NO.
	c. REPORT PERIOD FROM TO

Line No.	I. PROGRAM EXPENDITURES SUMMARY	TITLE II-A	TITLE III FORMULA	TITLE III National Reserve
		(A)	(B)	(C)
1.	A. TOTAL PROGRAM EXPENDITURES (FEDERAL FUNDS)			
2.	1. SDA TOTAL PROGRAM EXPENDITURES			
3.	(a) Training			
4.	(b) Participant Support			
5.	(c) Administration			
6.	2. Total Expenditures of 202(b) Setaside Funds (Total of Lines (b) + (c) + (d) + (e))			
7.	(a) Non-add Planning figure 202(b) 6% funds reserved by State for T.A. purposes, this Program Year			
8.	(b) 202(b)(3)(B) expenditures of 6% funds for technical assistance			
9.	(c) 202(b)(1) 8% for State educational programs			
10.	(d) 202(b)(2) 3% for training of older individuals			
11.	(e) 202(b)(4) 5% for auditing and State administration			
12.	II. TOTAL PROGRAM EXPENDITURES FOR YOUTH (special breakout)			
	III. PARTICIPATION AND TERMINATION SUMMARY			
13.	A. TOTAL PARTICIPANTS (cumulative)			
14.	1. SDA 78% Allotment Participants			
15.	2. 202(b)(1) 8% Setaside Participants			
16.	3. 202(b)(2) 3% Setaside Participants			
17.	B. TOTAL TERMINATIONS (Cumulative)			
18.	1. SDA 78% Allotment Terminations			
19.	2. 202(b)(1) 8% Setaside Terminations			
20.	3. 202(b)(2) 3% Setaside Terminations			

REMARKS:

SIGNATURE AND TITLE	d. DATE SIGNED	e. TELE. NO.

ETA 9009 (March 1986)

c. *Report Period.* Enter in "From" the beginning date of the designated JTPA program year and enter in "To" the ending date of the report period, as specified above.

d. *Signature and Title* (at bottom of the page). The authorized official of the Governor signs here and enters his or her title.

e. *Dated Signed.* Enter the date the report was signed by the authorized official.

f. *Telephone Number.* Enter the area code and telephone number of the authorized official.

Column Heading

Column A

Record in this column information regarding specified expenditures of all *Title II–A* funds (Sec. 202(a) and Sec. 202(b)) and all participants in Title II–A and 202(b)(1) and (2) activities.

Column B

Record in this column information regarding specific expenditures all *Title III* Formula Allocation Federal funds (Sec. 301(b)) and all participants in Title III formula-funded activities.

Column C

Record in this column information regarding specified expenditures of Title III National Reserve Federal funds (Sec. 301(a)) and all participants in Title III National Reserve-funded projects.

Section I—Program Expenditures Summary

This information is to be completed on the State report for the end of the second quarter, and the report for the end of the fourth quarter.

The JSSR will be compiled on an accrual basis. If the recipient's accounting records are not normally maintained on an accrual basis, the accrual information should be developed through an analysis of the records on hand or on the basis of best estimates.

Item I.A. Total Program Expenditures (Federal Funds)

Enter total actual accrued expenditures for Title II–A (including setaside funds) and III of the State or recipient's program, through the end of the report period, in Columns A, B, and C, as appropriate, for *all* participants served under that title. Entries will be made to the nearest dollar.

Col. A., Items I.A.1., a., b., c.

Enter actual accrued expenditures of the 78% allotment funds allocated to service delivery areas (SDAs) under Sec. 202(a) of the Act, plus all funds distributed by the Governor to SDAs under Sec. 202(b) of the Act for *performance incentives*, and expended by SDAs in each of the following three categories (20 CFR 629.38, 629.39, 630.2):

Item I.A.1.a. Training
Item I.A.1.b. Participant Support
Item I.A.1.c. Administration

(Refer to Classification of Costs in the JTPA Regulations.)

Cols. B. and C., Items I.A.1.a., b., c.

Enter total statewide accrued expenditures of all Section 301, Formula (Col. B.), and Sec. 301 National Reserve (Col. C.) funds received by the Governor, under each of the following three categories (20 CFR 631.13):

Item I.A.1.a. Training
Item I.A.1.b. Participant Support
Item I.A.1.c. Administration

Col. A., Item I.A.2.

Enter total statewide accrued expenditures of all Sec. 202(b) setaside funds (lines (b), (c), (d) and (e)). Note: Include here setaside funds (other than Performance Incentive funds) distributed by the Governor to the SDAs and other service deliverers.

Col. A., Item I.A.2.a. Offset Planning Figure Box

Enter the State's Annual Planning target figure of funds reserved under the Sec. 202(b) 6% allocation that have been reserved for technical assistance during the current program year. (This is a non-add item, and therefore is offset from Col. A.)

Col. A., Item I.A.2.b. 6% Funds

Enter total accrued expenditures of all Sec. 202(b)(3)(B) 6% funds for *technical assistance* only.

Col. A., Item I.A.2.c. 8% Funds

Enter total accrued expenditures of all Sec. 202(b)(1) 8% funds for State educational programs.

Col. A., Item I.A.2.d. 3% Funds

Enter total accrued expenditures of all Sec. 202(b)(2) 3% funds for training of older individuals.

Col. A., Item I.A.2.e. 5% Funds

Enter total accrued expenditures of all Sec. 202(b)(4) 5% funds for auditing and State administration.

Section II—Expenditures for Youth (Special Breakout)

Col. A., Only (line 12)

This information is to be completed on the State report for the end of the second quarter, and the report for the end of the fourth quarter.

Enter total accrued expenditures of *all* Title II–A (Section 202(a)) funds for services to eligible youth, pursuant to Sec. 203(b) of the Act. Include any funds expended to serve youth ages 14 and 15 in exemplary youth programs authorized under Sec. 205(c)(1).

Section III—Participation Summary

This information is to be completed on the State report for the end of the fourth quarter, only (the report due to ETA no later than August 15).

Cols. A., B., C., Item III.A. Total Participants (cumulative)

Enter the total number of participants who are or were receiving employment, training, or services (except post-termination services) funded under that program title through the end of the fourth quarter, including both those on board at the beginning of the designated program year and those who have entered during the program year.

"Participant" means any individual who has: (1) Been determined eligible for participation upon intake; and (2) started receiving subsidized employment, training, or services (except post-termination services) funded under the Act, following intake. Individuals who receive *only* outreach and/or intake and assessment services or post-program follow-up are excluded.

Participants who have transferred from one Title to another, or between Title III Formula programs and National Reserve funded programs, should be recorded as terminations from the Title or program of initial participation and included as participants in the Title or program into which they have transferred.

Col. A., Item III.A.1.

Enter the total number of participants served by SDAs with 78% allotment funds under Sec. 202(a), plus funds distributed by the Governor to SDAs under Sec. 202(b) for performance incentives.

Col. A., Items III.A.2. and III.A.3. Setaside Participation Detail

Enter the total number of participants served by the Sec. 202(b)(1) 8% State education setaside, and the Sec. 202(b)(2) 3% older worker training setaside.

Cols. A., B., C., Item III.B. Total Terminations (Cumulative)

Enter by column the total number of participants terminated after receiving employment, training, or services (except post-termination services) funded under that program title, for any

reason, from the beginning of the program year through the end of the fourth quarter.

"Termination" means the separation of a participant from a given title of the Act who is no longer receiving employment, training, or services (except post-termination services) funded under that title.

Note.—Individuals may continue to be considered as participants for a single period of 90 days after last receipt of employment and training funded under a given title. During the 90-day period, individuals may or may not have received services.

Col. A., Item III.B.1.

Enter the total number of participants who have left SDA programs through the end of the fourth quarter which were funded by Sec. 202(a) 78% allotment funds plus Sec. 202(b) performance incentive funds.

Col. A., Items III.B.2. and III.B.3. Setaside Participant Detail

Enter the total number of participants who have left programs through the end of the fourth quarter which were funded by the Sec. 202(b)(1) 8% State education setside, and the Sec. 202(b)(2) 3% older worker training setaside.

JTPA Summer Performance Report (JSPR)

1. *Purpose.* The JTPA once-per-program year Summer Performance Report (JSPR) displays cumulative data on program costs, and on the characteristics of youth who participated in the Title II–B SYEP program throughout the State. This information will be used to determine levels of program service and expenditures, to give the Department information on who is served by the program and to respond to Congressional oversight.

2. *General Instructions.*

a. A single JSPR will be submitted by the Governor on a statewide basis, 45 days after the end of summer program report period on September 30, i.e., no later than November 15. Two copies of the JSPR are to be provided to:

Employment and Training Administration, U.S. Department of Labor
ATTENTION: TVSR—Room S–5306, 200 Constitution Avenue, NW., Washington, DC 20210

An additional copy of JSPR is to be provided to the appropriate Regional Administrator for Employment and Training in the DOL Regional Office that includes the State in which the JTPA recipient is located.

3. *Facsimile of Form.* See the following page.

4. *Instructions for Completing the JTPA Semiannual Status Report.*

a. *Recipient's Name and Address.* Enter the name and address of the recipient.

b. *Recipient's Grant Number.* Enter the recipient's grant number, as assigned by ETA in a separate issuance.

c. *Report Period.* Enter in "From" the beginning date of the designated JTPA Title II–B report year, i.e. October 1, and enter in "To" the ending date of the report period, as specified above.

BILLING CODE 4510-30-M

JTPA Summer Performance Report (JSPR)

Approved for use through 12/31/88 OMB No.1205-0200

a. Recipient's Name and Address	b. Recipient's Grant No.
	c. Report Period FROM TO

	Section I - Program Expenditures Summary	
1.	Total Title II-B Expenditures (Federal Funds)	
2.	(a) Training	
3.	(b) Participant Support	
4.	(c) Administration	
	Section II - Statewide Participation Summary	
5.	Total Participants (Cumulative)	
	Section III - Characteristics Summary	
6.	Male	
7.	Female	
8.	14 - 15	
9.	16 - 17	
10.	18 - 21	
11.	School Dropout	
12.	Student	
13.	High School Graduate, or Equivalent, & Above	
14.	Single Head of Household with Dependent Children Under 18	
15.	White (Not Hispanic)	
16.	Black (Not Hispanic)	
17.	Hispanic	
18.	American Indian or Alaskan Native	
19.	Asian or Pacific Islander	
20.	Limited English Language Proficiency	
21.	Handicapped	

d. Signature and Title	d. Date Signed	f. Tele No.

ETA 9010 (March 1986)

d. *Signature and Title* (at bottom of the page). The authorized official of the Governor signs here and enters his or her title.

3. *Date Signed.* Enter the date the report was signed by the authorized official.

f. *Telephone Number.* Enter the area code and telephone number of the authorized official.

LINE ITEM DEFINITIONS AND INSTRUCTIONS

Section I—Program Expenditures Summary

The JSPR will be compiled on an accrual basis. If the recipient's accounting records are not normally maintained on an accrual basis, the accrual information should be developed through an analysis of the records on hand or on the basis of best estimates.

Line 1. Total Title II–B Expenditures (Federal Funds)

Enter total actual accrued expenditures of all Title II–B funds (Sec. 251) by the SYETP program statewide through the closing date of the summer program for *all* participants served. Entries will be made to the nearest dollar.

Lines 2., 3., and 4

Enter the actual accrued expenditures statewide of all Title II–B SYETP funds expended in each of the following time categories (20 CFR 629.38, 629.39, 630.2):

Line 2. (a) Training

Line 3. (b) Participant Support

Line 4. (c) Administration

(Refer to classification of costs in the JTPA regulations.)

Section II—Statewide Participation Summary

Line 5. Total Participants

Enter the total number of participants who were receiving employment, training or services (except post-termination services) funded under Title II–B through the closing date of the summer program, i.e., those who have entered during the program's duration.

"Participant" means any individual who has: (1) been determined eligible for participation upon intake; and (2) started receiving subsidized employment, training, or services (except post-termination services) funded the Act, following intake. Individuals who receive *only* outreach and/or intake and assessment services or post-program follow-up are excluded.

Section III—Characteristics Summary

Sex

Line 6. Male
Line 7. Female

Distribute the participants by line according to sex. The sum of Lines 6. and 7. should equal Total Participants as shown on Line 5.

Age

Line 8. 14–15
Line 9. 16–17
Line 10. 18–21

Distribute the participants by line according to the proper age breaks. Lines 8., 9., and 10. should equal Total Participants (Line 5.).

Education Status

Line 11. School Dropout
Line 12. Student
Line 13. High School Graduate, or Equivalent, and above.

Distribute the participants by line according to education status. The sum of Lines 11., 12., and 13. should equal Total Participants (Line 5.).

Family Status

Line 14. Single Head of Household with Dependent Children under 18. Enter the number of participants for whom the above Family Status classification applies.

Race/Ethnic Group

Line 15. White (Not Hispanic)
Line 16. Black (Not Hispanic)
Line 17. Hispanic
Line 18. American Indian or Alaskan
Line 19. Asian or Pacific Islander

Distribute the participants by line according to the Race/Ethnic Groups listed above. For the purposes of this report, Hawaiian Natives are to be recorded as "Asian or Pacific Islander." The sum of Lines 15. through 19. should equal Total Participants (Line 5.).

Other Barriers to Employment

Line 20. Limited English Language Proficiency
Line 21. Handicapped

Enter the total number of participants in each line for whom the above-listed Barriers to Employment apply.

Appendix B—Definitions of Terms Necessary for Completion of Reports

Employment/Training Services

Assessment—services are designed to initially determine each participant's employability, aptitudes, abilities and interests, through interviews, testing and counseling to achieve the applicant's employment related goals.

Follow-Up—is the collection of information on a terminee's employment situation at a specified period after termination from the program.

Intake—includes the screening of an applicant for eligibility to determine: (1) Whether the program can benefit the individual; (2) the employment and training activities and services which would be appropriate for that individual; (3) availability of an appropriate employment and training activity; (4) a decision on selection for participation and (5) dissemination of information on the program.

Outreach—activity involves the collection, publication and dissemination of information on program services directed toward economically disadvantaged and other individuals eligible to receive JTPA training and support services.

Education status

School Dropout—An adult or youth (aged 14–21) who is not attending school full-time and has not received a high school diploma or a GED certificate.

Student—An adult or youth (aged 14–21) who has not received a high school diploma or GED certificate and is enrolled full-time in an elementary, secondary or post-secondary level vocational, technical or academic school or is between school terms and intends to return to school.

High School Graduate, or Equivalent and Above—A youth (aged 14–21) who has received a high school diploma, GED Certificate or has attended (or is attending) any post-secondary-level vocational, technical, or academic school.

Family Status

Single Head of Household—A single, abandoned, separated, divorced or widowed individual who has responsibility for one or more dependent children under age 18.

Race/Ethnic Group

White (not Hispanic)—A person having origins in any of the original peoples of Europe, North Africa, or the Midle East.

Black (not Hispanic)—A person having origins in any of the black racial groups of Africa.

Hispanic—A person of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin (including Spain), regardless of race.

Note.—Among persons from Central and South American countries, only those who are of Spanish origin, descent, or culture should be included in the Hispanic category.

Persons from Brazil, Guiana, and Trinidad, for example, would be classifed according to their race, and would not necessarily be included in the Hispanic category. Also, the Portugese should be excluded from the Hispanic category and should be classified according to their race.

American Indian or Alaskan Native—A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

Asian or Pacific Islander—A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent (e.g., India, Pakistan, Bangladesh, Sri Lanka, Nepal, Sikkim, and Bhutan), or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa. Hawaiian natives are to be recorded as Asian or Pacific Islanders.

Other Barriers to Employment

Limited English Language Proficiency—Inability of an applicant, whose native language is not English, to communicate in English, resulting in a job handicap.

Handicapped Individual—Refer to Sec. 4(10) of the Act. Any individual who has a physical or mental disability which for such individual constitutes or results in a substantial handicap to employment. NOTE: This definition will be used for performance standards purposes, but is not required to be used for program eligibility determination (Sec. 4(8)(E)).

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NUCLEAR REGULATORY COMMISSION

Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations; Bi-Weekly Notice

I. Background

Pursuant to Public Law (Pub. L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular bi-weekly notice. Pub. L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This bi-weekly notice includes all amendments issued, or proposed to be issued, since the date of publication of the last bi-weekly notice which was published on April 23, 1986 (51 FR 15391) through April 28, 1986.

Notice of Consideration of Issuance of Amendment To Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Comment should be addressed to the Rules and Procedures Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this **Federal Register** notice.

By June 6, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, fiancial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amedment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provide that its final determination is that the amendment involves no significant hazards consideration. The final determinaton will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide the opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call toWestern Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Project Director)*: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specifies in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Baltimore Gas and Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendment requests: October 25, 1985 and December 22, 1983 as supplemented by letters dated April 21, 1986.

Description of amendment request: The proposed amendment would change the Unit 1 and Unit 2 Technical Specification (TS) as follows: (1) a provision would be added to TS 3.6.5.1, "Combustible Gas Control-Hydrogen Analyzers," to allow the changing of operational Modes with inoperable hydrogen analyzers (3.0.4 not applicable), (2) the reporting requirements of TS 4.4.5.5, "Reports-Steam Generators" would be clarified, and (3) a new TS 3/4.4.13, "Reactor Coolant System Vents" would be incorpoated in the TS.

Issuance of the above proposed TS would complete NRC action on the applications dated October 25, 1985 and December 22, 1983.

Basis for proposed no significant hazards consideration determination: BG&E has proposed a change to TS 3.6.5.1 to allow the changing of operational Modes with inoperable hydrogen analyzers. The purpose of the hydrogen analyzers is to sample the containment atmosphere, following a loss-of-coolant accident (LOCA), in order to determine the need for hydrogen reduction (via hydrogen recombiners or venting.) At the present time, TS 3.0.4 is applicable to TS 3.6.5.1 which means that the reactor cannot change operational Modes (for example, the reactor could not start up if already shutdown) should a hydrogen analyzer become inoperable. BG&E proposes that the statement "Specification 3.0.4 is not applicable to this requirement" be added to TS 3.6.5.1.

The proposed change to TS 3.6.5.1 would not involve a significant increase in the probability or consequences of an accident previously evaluated. In this case, the changing of operational Modes (for examle, a startup of the reactor) does not significantly increase the likelihood of a LOCA and no change in the consequence of a LOCA would be involved. The proposed change in TS 3.6.5.1 does not create the possibility of a new or different kind of accident from any accident previously evaluated. The remedial action requirements of TS 3.6.5.1 were selected to assure that a hydrogen analyzer capability would be available in the event of a LOCA. The proposed change to the TS 3.6.5.1 does not change any remedial action requirements. Finally, the proposed change to TS 3.6.5.1 does not reduce any safety margins since no decrease in the availability or capability of the hydrogen analyzers is involved.

Based upon the above, the Commission proposes to detrmine that the proposed change to TS 3.6.5.1 involves no significant hazards considerations.

BG&E has proposed changes to TS 4.4.5.5 to clarify reporting requirements associated with steam generator tube inspections. Sepcifically, the following clarifications have been proposed: (1) the 15 day reporting requirement of TS 4.4.5.5a would be cross-referenced to the special reporting requirements of TS 6.9.2; (2) the annual operating report requirements of TS 4.4.5.5b would be cross-referenced to the annual operating report requirements of TS 6.9.1.5b; (3) the 30 day reporting requirement of TS 4.4.5.5c would be cross-referenced to the special reporting requirements of TS 6.9.2; and (4) the telephone reporting requirement of TS 4.4.5.5c would be corrected by removing the cross-reference to 6.9.2, since these are written reporting requirements. The proposed change to TS 4.4.5.5c would also identify the recipient of the telephone report as the Regional Administrator since the Regional Administrator is the recipient of other, similar, reports. The proposed changes to TS 4.4.5.5 would clarify the associated reporting requirements and reduce the likelihood of errors in the preparation and submittal of reports.

On April 3, 1983, the NRC published guidance in the Federal Register (48 FR 14870) concerning examples of amendments that are not likely to involve a significant hazards considerations. One example provided in 48 FR 14870 of amendments not likely to involve significant hazards considerations is example (i) which provides for "A purely administrative change to technical specifications: For example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature." The proposed change to TS 4.4.5.5 helps to assure consistency within the TS and

thus the Commission proposes to determine that the proposed changes involve no significant hazards considerations.

BG&E has proposed adding a new TS for the reactor coolant system (RCS) high point vents to the existing TS. On November 1, 1983, the NRC issued Generic Letter No. 83–37 (GL 83–37) to all pressurized water reactor licensees. This letter contained guidance concerning TS which the NRC believed to be appropriate as addressed in NUREG-0737, "Clarification of TMI Action Plan Requirements". BG&E responded, in part, to GL 83–37 via their application for license amendment dated December 22, 1983 concerning the RCS High Point Vents. These vents, installed in the reactor vessel head and the pressurizer vapor space, would allow post-LOCA venting of non-condensible gases to enhance reactor core cooling via natural circulation. Following discussions with the NRC staff, BG&E supplemented their application by letter dated April 21, 1986.

BG&E's proposed TS for the RCS vents conform substantially to the model TS provided in GL 83–37. One area of difference is that BG&E's proposed TS allow use of the pressurizer power operated relief valves (PORCs) as a backup to the pressurizer high point vent. As indicated in BG&E's letter of April 21, 1986, the PORVs conform to most of the high point vent requirements in NUREG–0737 and thus represent an appropriate alternate pressurizer vent capability should the pressurizer high point vent become inoperable.

One example (ii) provided in 48 FR 14870 of a change not likely to involve significant hazards considerations involves a change ". . . that constitutes and additional limitation, restriction, or control not presently included in the technical specification. . . . " Since the proposed TS represent additional limitations not previously in the TS, these proposed changes are consistent with example (ii). Accordingly, the Commission proposes to determine that these proposed changes to the TS which provide new TS for the RCS high point vents involve no significant hazards considerations.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Attorney for licensee: Jay E. Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: Ashok C. Thadani.

Baltimore Gas and Electric Company, Docket Nos. 50–317 and 50–318, Calvert Cliffs Nuclear Power Plant, Unit Nos. 1 and 2, Calvert County, Maryland

Date of amendment request: January 20, 1986 (partial response) as supplemented by letter dated April 25, 1986.

Description of amendment request: The proposed amendments would change the Unit 1 and Unit 2 Technical Specification (TS) as follows: (1) TS 4.7.1.2c.2, "Auxiliary Feedwater System," would be changed to reflect a revised flow test requirement. In addition, a typographical error would be corrected (Unit 2 only); (2) TS 4.7.8.1, "Snubbers" would be changed to subdivide the snubber surveillance population based upon snubber type; and (3) TS 4.9.12d.2, "Spent Fuel Pool Ventilation System," would be changed regarding the demonstration of negative pressure during system operation. Consideration of the above changes to the Unit 1 and Unit 2 TS is in partial response to the application dated January 20, 1986; the remaining issues associated with this application will be addressed in future correspondence.

Basis for proposed no significant hazards consideration determination: BG&E has proposed a change to TS 4.7.1.1.2c.2 and the associated Bases that would increase the 18 month demonstrated auxiliary feedwater (AFW) flow from 200 gpm to 300 gpm. A footnote would also be added which would clarify the flow requirement to indicate that the ". . . surveillance may be performed on one flow leg at a time." A flow leg is a flow path leading from the discharge of an AFW pump to one of two steam generators. The existing TS 4.7.1.2c.2 requires demonstration of ". . . a minimum of 200 gpm nominal flow to each flow leg."

The proposed change to TS 4.7.1.2c.2 and the associated Bases was necessitated by modifications to the motor driven AFW pump recirculation. The pump recirculation provides a flow path to supply cooling water, from pump discharge to the pump intake, the prevent pump damage during the period from initial pump operation to onset of pump flow. The modification to the recirculation path for the motor driven AFW pump allows the automatic recirculation valve to be overriden. In this condition the valve will be in permanent recirculation. The valve was originally installed to decrease the loading on the diesels by eliminating the continuous recirculation from the pump. As the AFW system was tested it became apparent that, with automatic auxiliary feedwater actuation at low steam generator pressure, the recirculation valve and flow control valves were causing a flow instability problem.

Corrective actions for the AFW flow instability problem are relatively straightforward; however, their impact on emergency diesel generator loading has had to be closely studied. Placing the automatic recirculation valve in permanent recirculation without restricting delivered flow to the steam generators would cause the pump to require additional power. This increased load would exceed the maximum diesel generator load that has been dedicated to AFW. Therefore, calculations were performed to reanalyze the minimum required long term AFW flowrate. The result of these calculations showed that 300 gpm delivered to a single steam generator, or distributed between both steam generators, is sufficient to remove decay heat from the primary system from full-power post trip conditions to a primary system temperature of 300 °F, after which shutdown cooling can be used to continue the cool-down process. The above assumes that off-site power has been lost. Previous calculations had indicated that a minimum AFW flow of 400 gpm was required. The 300 gpm value was attained by crediting initiation of charging flow (one pump) at 60 minutes, reanalyzing the reactor coolant system (RCS) heat capacity, and applying ANS–5 1971 for decay heat loads (as permitted by 10 CFR Part 50, Appendix K). With this AFW delivered flow, all decay heat can be removed and the RCS cooled down to less than 300 °F from normal operating conditions in the event of a total loss of offsite power. This cooldown is accomplished within the 6 hour criteria of the Calvert Cliffs FSAR Section 10.3.2.

The output of the AFW system is not limited to the capacity of the motordriven AFW pump. In addition to the 300 gpm provided by the motor-driven AFW pump, two steam turbine driven AFW pumps are available, each with a design flow of 700 gpm at 2,490 feet total dynamic head (TDH). In addition, should a motor-driven AFW pump become inoperable, the motor-driven AFW pump from the unaffected unit can be cross-connected to provide additional flow capability. However, the demonstration that the motor-driven AFW pump, alone, is sufficient to cool down the RCS to 300 °F, maintains the motor-driven pump as a 100% capacity component and represents the principal motivation of the licensee for recalculation of the required AFW flow rate.

With the automatic recirculation valve in permanent recirculation, adequate AFW flow is provided to meet the FSAR and TS heat removal bases. Additionally, by imposing maximum flow limit on the motor-driven AFW pump, the design emergency diesel generator loading is not exceeded. Accordingly, the proposed change would not involve a significant increase in the probability or consequence of any accident previously evaluated. Since the proposed TS change assures that no equipment design limits are exceeded and the AFW design flow requirements can be achieved, the proposed TS change would not create the possibility of a new or different type of accident from any accident previously evaluated.

Finally, the proposed TS change does not involve a significant reduction in a margin of safety. Calculations performed indicate that 300 gpm supplied from the motor-driven AFW pump is sufficient to ensure that adequate AFW flow is available to remove decay heat and reduce the RCS temperature to less than 300 °F from normal operating conditions in the event of a total loss of offsite power. The Calvert Cliffs FSAR references Loss of Feedwater (LOFW) and Feedline Break (FLB) as undercooling scenarios. (FLB is not a design bases event for Calvert Cliffs, but it was analyzed for peak RCS pressure and 10 CFR Part 100 boundary dose calculations in association with the addition of automatic initiation of AFW). Undercooling events are of interest since they may be sensitive to AFW flow. For the LOFW event, the FSAR assumes that the Operator initiates AFW flow at 600 seconds with no minimum flow specified. The Operator, as stated in the bases, is assumed to be able to increase or decrease AFW flow to that required by existing plant conditions. Feedline Break is analyzed for peak RCS pressure and credits no AFW flow until well after the peak pressure has occurred. Therefore, this event is not affected by the change in AFW flow. Incorporation of this Technical Specification change, therefore, would not result in a significant reduction in the margin of safety for either of these events. Based upon the above, the Commission proposes to determine that the proposed changes to the TS involve no significant hazards considerations.

BG&E has proposed a change to TS 4.7.1.2c (Unit 2, only) that corrects a typographical error. The TS section designated as 4.7.1.2.c.a should be 4.7.1.2.c.1.

On April 6, 1983, the NRC published guidance in the Federal Register (48 FR 14870) concerning examples of amendments that are not likely to involve a significant hazards consideration. One example provided in 48 FR 14870 of amendments not likely to involve significant hazards considerations is example (i) which provides for "A purely administrative change to technical specifications: For example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature." The proposed change to TS 4.7.1.2c would correct an error and thus the Commission proposes to determine that the proposed change involves no significant hazards considerations.

BG&E has proposed a change to TS 4.7.8.1 and the associated Bases in order to differentiate between "types" of snubbers for the purpose of surveillance. At the present time, TS 4.7.8.1. requires a representative sample of 10% of the snubbers to undergo surveillance on a sliding scale, depending on snubber performance, ranging from 18 months (no failures) to 31 days (eight or more failures). Moreover, should a snubber fail the "functional" test, an additional 5% of the snubbers must be functionally tested. BG&E proposes to define snubber "type" as follows: "As used in this specification, type of snubber shall mean snubbers of the same design and manufacturer, irrespective of capacity." The definition of "type" would also be incorporated in the functional test requirements of TS 4.7.8.1c such that snubber failures would result in additional tests for only a particular "type" of snubber rather than the general snubber population.

BG&E currently utilizes two types of hydraulic snubbers, both produced by the same manufacturer (Grinnell). The two types operate similarly in principle, but have different design features (irrespective of capacity related dimension differences). Small bore snubbers installed on various piping systems at Calvert Cliffs have bore sizes that range from 1-½" to 6". All small bore snubbers have the same design valve block and have only one valve block per snubber. The large bore snubbers, installed on the steam generators at Calvert Cliffs, all have 10" bores. The valve blocks on these snubbers are different in design from those on the small bore snubbers. Additionally, there are two valve blocks per snubber.

The differences between these two types of snubbers is apparent upon a review of functional testing load and acceptance criteria. Small bore snubbers are designed for loads up to 72,000 pounds force. The Locking Velocity (LV) and Bleed Rate (BR) acceptance criteria are as follows:

Inches Per Minute (IPM)
LV: 1–40
BR: .25–25 (Adjusted for room temperature)

The large bore snubbers are designed for loads up to 300,000 pounds force.

Their acceptance criteria are much more restrictive:

Inches Per Minute (IPM)
LV: 1.25–1.75
BR: 0.0625–0.1875

Based upon the above, a functional failure in the small bore snubber population is not significant with regard to the large bore snubber population and vice versa.

Although all snubbers at Calvert Cliffs are currently produced by the same manufacturer, Surveillance Requirement 4.7.8.1 was expanded using standard industry phraseology to define "type" as "of the same design and manufacturer." Inclusion of the word "manufacturer" precludes the necessity of a future Technical Specification change should BG&E replace certain snubbers with a different make. The difference between small and large bore hydraulic snubbers is explicity referenced in the proposed TS Bases to prevent interpretive difficulties.

Differentiation by snubber "type" with regard to snubber surveillance has been an NRC position for some time and is reflected in the NRC's Combustion Engineering Standard Technical Specifications.

Based upon the above, we conclude that the proposed change to TS 4.7.8.1 does not involve a signficant increase in the probability or consequences of accidents previously evaluated. No modification to plant equipment is made by this proposed change. Each snubber "type" will continue to be inspected in accordance with the existing acceptance criteria in the TS. The proposed change to TS 4.7.8.1 also does not create the possibility of a new or different type of accident from any accident previously evaluated in that it does not involve a change to any component, system alignment, or operating procedure. This proposed change clarifies the current TS wording by recognizing the two "types" of snubbers currently utilized at Calvert Cliffs. This change allows for functional and visual snubber inspection criteria to be applied to each snubber "type" separately. This change does not involve a significant reduction in the margin of safety in that the snubber performance criteria contained in the existing TS for each type are not being altered and thus

seismic induced stress margins, associated with components supported by the snubbers, are not reduced.

Based upon the above, the Commission proposes to determine that the proposed change to the TS involves no signficant hazards considerations.

BG&E has proposed a change to TS 4.9.12.d.2, which requires verification that each exhaust fan in the Spent Fuel Pool Ventilation System maintains a negative pressure in the spent fuel storage pool area. Currently, TS 4.9.12.d.2 requires that a "negative pressure greater than or equal to ⅛ inches Water Gauge" be maintained by each exhaust fan. The proposed change would require that a "measureable negative" pressure be maintained by each exhaust fan.

A minimum allowable "measurable negative" pressure will be established for the surveillance and will be controlled administratively. The differential pressure established will be verified, by smoke test of area access doors and hatches, to be negative enough to assure that, where leakage occurs, the air flow path is into the spent fuel pool area.

The reactor containment under refueling conditions and the spent fuel pool area are similar in that, in both cases, the degree of containment is based upon a fuel handling accident (i.e. the dropping of a spent fuel assembly within the refueling/storage pool.) The Bases for TS 3/4.9.4, "Containment Penetrations", states that "The OPERABILITY and closure restrictions are sufficient to restrict radioactive material release from a fuel element rupture based upon the lack of containment pressurization potential while in the REFUELING MODE." Similarly, a fuel handling accident in the spent fuel pool area would not result in a pressurization potential. A "measurable negative pressure" maintained by the spent fuel pool ventilation system is therefore sufficient to assure that any material that is released will be treated by the filters in the ventilation system.

Based upon the above, we conclude that the proposed change to TS 4.9.12.d.2 would not involve a significant increase in the probability or consequences of an accident previously evaluated. The design basis for the Spent Fuel Pool Ventilation System is to ensure that all radioactive material released from an irradiated fuel assembly will be filtered through the HEPA filters and charcoal adsorbers prior to discharge to the atmosphere. The system is assumed to perform this function for a Fuel Handling Incident as mentioned in the FSAR, Section 14.18. A "measurable negative" pressure in the spent fuel storage pool area will continue to assure that air flow is into this area from outside. Therefore, the amount of radioactive material released during a Fuel Handling Incident would not be significantly increased. The proposed change also does not create the possibility of a new or different type of accident from any accident previously evaluated since the change would not modify equipment or permanently change system alignments. The procedural change involved in performing the leakage tests would not create the possibility of a new or different accident since any system alignment changes would be corrected prior to returning the system to operation. Finally, the proposed change would not involve a significant reduction in a margin of safety. This proposed TS would allow fuel movement in the spent fuel storage pool area when pressure is "measurably negative." However, as discussed above, the amount of radioactive material released during potential incidents would not be significantly increased nor would the filter efficiency be changed so no safety margin would be significantly reduced with regard to off-site releases of radioactive material. Based upon the above, the Commission proposes to determine that the proposed changes to TS 4.9.12.d.2 involve no significant hazards considerations.

Local Public Document Room location: Calvert County Library, Prince Frederick, Maryland.

Attorney for licensee: Jay E. Silberg, Esq., Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: Ashok C. Thadani.

Boston Edison Company, Docket No. 50-293, Pilgrim Nuclear Power Station, Plymouth, Massachusetts

Date of amendment request: February 25, 1986.

Description of amendment request: The amendment would change the Technical Specifications by deleting discontinued American Society of Testing and Materials (ASTM) standard references for diesel fuel oil and replacing them with the current ASTM standard references.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning application of the standards for determining whether license amendments involve significant hazards considerations by providing certain examples (48 FR 14870). An example of an amendment that is considered not likely to involve significant hazards is (i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or change in nomenclature.

Updating the references to ASTM diesel fuel oil standards will be simply a change in nomenclature since no change in those standard specifications was made. Thus, the proposed amendment is similar to example (i). The staff has, therefore, made an initial determination that no significant hazard consideration is involved with this amendment request.

Local Public Document Room location: Plymouth Public Library, 11 North Street, Plymouth, Massachusetts 02360.

Attorney for licensee: W. S. Stowe, Esq., Boston Edison Company, 800 Boylston Street, 36th Floor, Boston, Massachusetts 02199.

NRC Project Director: John A. Zwolinski.

Commonwealth Edison Company, Docket No. 50-249, Dresden Nuclear Power Station, Unit No. 3, Grundy County, Illinois

Date of amendment request: February 21, 1986 as supplemented April 18, 1986.

Description of amendment request: The proposed amendment would change the nuclear limits to reflect the Cycle 10 9x9 reload, incorporate an expanded power/flow operating map, delete the license condition for Single Loop Operation (SLO) and incorporate SLO provisions in the body of the Technical Specifications, incorporate Linear Heat Generating Rate (LHGR) limits for Exxon 8x8 and 9x9 fuel as a limiting condition for operation and incorporate reactor stability monitoring and restrictions on the allowable operating conditions during SLO.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c).

The licensee has presented its determination of no significant hazards consideration as follows:

Commonwealth Edison has evaluated the proposed Technical Specification amendment and determined that it does not represent a significant hazards consideration. Based on the criteria for defining a significant hazards consideration established in 10 CFR 50.92(c), operation of Dresden Unit 3 [in] Cycle 10 in accordance with the proposed amendments will not:

1. Involve a significant increase in the probability or consequences of an accident previously evaluated because:

a. The Exxon 9x9 fuel was first introduced to Dresden 2 Cycle 9 as Lead Test Assemblies (LTA) and these assemblies are currently going through their second cycle of irradiation. The Dresden 3 XN–3 and XN–3A reload fuel is very similar in design to the Dresden 2 LTAs with the exception in the number of water rods and Gadolinia-bearing fuel rods. The XN–3 and XN–3A 9x9 fuel thermal-hydraulic performance falls between that of the ENC [Exxon Nuclear Company, Inc.] 8x8 fuel and the GE 8x8 fuel indicating adequate compatibility for corresidence in the Dresden 3 core. ENC evaluated the XN–3 and XN–3A reload fuel mechanical design using the methodology which has either received prior NRC approval or is currently under NRC review. The transient analyses were performed using plant transient analysis methodology which is similar to that which was used to establish thermal margin requirements for Cycles 8 and 9. Finally, the LOCA–ECCS analysis for the 9x9 fuel was performed with generically NRC-approved methods and the results comply with 10 CFR 50.46 criteria. Thus, the XN–3 and XN–3A reload 9x9 fuel design is not significantly different from those previously found acceptable to the NRC for previous reloads at Dresden 3 and 2 and therefore does not increase the probability or consequences of an accident.

b. The removal of the provisions regarding SLO from the license and the incorporation of them into the Technical Speciafications, with some minor revisions and, additionally, the allowing operation in SLO above 50% power will not increase the probability or consequences of an accident because GE has previously performed analyses supporting SLO above 50% power. Furthermore, recent SLO tests performed at another plant site have demonstrated that operation in Single Loop does not represent a less stable mode of operation. ENC has evaluated the results of the GE analyses and concludes the results are also applicable for ENC reload fuel; therefore, Dresden 3 may safely operate in SLO under the conditions of the proposed license amendment. Stability monitoring surveillances consistent with Generic Letter 86–09 have been included in the proposed amendment to provide further assurance of stable reactor operation.

c. ENC has performed an Extended Loan Line Limit Analysis (ELLLA) that supports operation in an expanded POWER/FLOW region; Analysis shows that transients initiated from the most limiting point of this expanded region (100/87) would be bounded by the POWER/FLOW condition at 100%/100% and thus ensure that no safety limits would be violated. For LOCA–ECCS concern, limiting LOCA break calculations were performed for the 100/87 and the 100/100 conditions. Both operating conditions were found to result in essentially identical LOCA results with the POWER/FLOW condition of 100/87 giving the slightly higher peak cladding temperature which was used to verify the adequacy of LOCA–ECCS MAPLHGR Limits. By observing the MAPLHGR limits, the consequences of accidents (LOCA) remain within the existing accident criteria established for Dresden.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated because:

a. 9×9 fuel has been previously used in Dresden 2 and has exhibited operating characteristics similar to conventional 8×8 fuel. This operating experience plus analytical results demonstrating compatible hydraulic characteristics provides assurance that the cycle 10 core characteristics will not be significantly different from previous cycles.

b. Operation in Single Loop consistent with the proposed amendment has been previously evaluated by General Electric, Exxon Nuclear Inc and the NRC. SLO in the manner proposed is similar to that approved for previous cycles at Dresden and at other facilities and incorporates restrictions and surveillances consistent with NRC requirements (Generic Letter 86–09).

c. Operation in the ELLLA region does not allow any new modes of operation nor any new equipment which could initiate or change the nature of accident sequences.

3. Involve a significant reduction in the margin of safety for the same reason as 1. above. The proposed operation with 9×9 fuel, modified SLO provisions and utilizing the ELLLA region has been appropriately analyzed and necessary Technical Specification operating restrictions incorporated to assure that the margin to safety is maintained consistent with the NRC requirements and previous cycles.

The staff has reviewed the licensee's no significant hazards consideration determination and the technical content of the submittals and agrees with the licensee's analysis. Therefore, based on this review, the staff has made a proposed determination that the requested amendment involves no significant hazards consideration.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Attorney for licensee: Mr. Michael I. Miller; Isham, Lincoln and Beale, Three First National Plaza, Suite 5200, Chicago, Illinois 60602.

NRC Project Director: John A. Zwolinski.

Consumers Power Company, Docket No. 50–155, Big Rock Point Plant, Charlevoix County, Michigan

Date of amendment request: April 21, 1986, superseding March 4, 1986 and September 30, 1985 submittals.

Description of amendment request: The amendment would add operability and surveillance requirements for the alternate shutdown system. The amendment request also includes proposed technical specifications (TS) for the active fire barriers and the fire detection instrumentation for new facility Auxiliary Shutdown Building. All of these TS apply to equipment required by Appendix R to 10 CFR Part 50.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c).

10 CFR 50.91 requires that at the time a license requests an amendment, it must provide to the Commission its analysis, using the standards in § 50.92, about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the licensee has performed and provided the following analysis:

The operation of Big Rock Point in accordance with the proposed amendment not involve a significant increase in the probability or consequences of an accident previously evaluated.

This change adds operability and surveillance requirements for equipment required to operate to assure a safe method of cooling the primary system, in the event of a fire. This proposed change (and associated modifications as previously approved in NRC Safety Evaluations dated March 8, 1983 and March 26, 1985) decreases significantly the consequences of a design basis fire.

The alternate shutdown system battery replaces the station battery as the power source for the main steam isolation valve, and emergency condenser outlet valves. The design and operability requirements of this battery system are consistent with those of the station battery currently addressed by the Big Rock Point Technical Specifications, thus not increasing the probability or consequences of an accident previously evaluated.

The operation of Big Rock Point in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed changes do not change the existing requirements for operability or surveillance of the shutdown system equipment except to place additional restrictions and surveillance requirements on such equipment. The changes do not allow the equipment to be operated in any new or different way from what is currently allowed and therefore do not create the possibility of a new or different kind of accident from any accident previously evaluated.

The operations of Big Rock Point in accordance with the proposed amendment will not involve a significant reduction in a margin of safety.

Existing Technical Specification operability and surveillance requirements have in no case been reduced by the proposed change. Only additional operability and surveillance requirements are added for safe shutdown equipment, thus no margins of safety will be reduced with issuance of this proposed change.

Consequently, this proposed change does not involve a significant hazards consideration.

The staff has reviewd the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposed to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: North Central Michigan College, 1515 Howard Street, Petoskey, Michigan 49770.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

Consumers Power Company, Docket No. 50–255, Palisades Plant, Van Buren County, Michigan

Date of amendment request: March 17, 1986.

Description of amendment request: The proposed amendment would change the existing Technical Specifications for heatup and cooldown, and hydrostatic test of the reactor vessel by raising the pressure/temperature limits to account for the effects of irradiation on the Palisades reactor vessel materials. The existing limits are good for 6.6 effective full power years (EFPY) which will be reached in late summer of this year. The proposed limits would extend the limits to approximately 9.0 EFPY.

Basis for proposed no significant hazards consideration detemination: The licensee has made the following analysis with regard to the significant hazards consideration:

The revised pressure-temperature limits are required to meet the reactor vessel fracture toughness requirements in 10 CFR 50 Appendix G. In order to operate safely, the reactor pressure vessel (RPV) must be kept in the ductile region. Therefore, pressure-temperature limits are defined to ensure the RPV will not be stressed under conditions which promote brittle failure. Higher temperature and corresponding higher pressure limits are required to compensate for the effects of neutron exposure on the RPV material. The higher operating limits account for the irradiation effects and maintain the RPV within its nil-ductility transition temperature. Therefore, the proposed change does not involve an increase in the probability or consequences of a previously evaluated accident and a new or different kind of accident is not created.

Operation of the RPV within the nil-ductility temperature, as determined by the methodology in Regulatory Guide 1.99, revision 2, will ensure the margin of safety is maintained.

The staff agrees with this analysis and therefore proposes to detemine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esquire, Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: Ashok C. Thadani.

Dairyland Power Cooperative, Docket No. 50–409, La Crosse Boiling Water Rector, Vernon County, Wisconsin

Date of amendment request: September 29, 1982 as revised October 29, 1982, September 16, 1985 and April 1, 1986.

Description of amendment request: The proposed amendment involves the consolidation and clarification of operability and surveillance requirements for the Emergency Core Cooling System (ECCS). This amendment request was originally noticed in the **Federal Register** on October 26, 1983 (48 FR 49583).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

During the review, the staff determined that the September 29, 1982 application as revised by the letter dated October 29, 1982 did not have adequate surveillance requirements and required more stringent applicable conditions for the High Pressure Core Spray (HPCS) system. In addition the staff required the licensee to provide clarification of the bases for the Alternate Core Spray (ACS) system and requested the deletion of Section 2.4.7 of the Technical Specifications (TS), which is to be superseded by Section 4/5.2.23.

The licensee has presented its determinations of no significant hazards considerations as follows:

We have reviewed the hazards considerations referenced in 10 CFR Part 50, Sections 91 and 92, and have determined that with these criteria no significant hazards considerations result from these proposed changes.

1. *Operation of LACBWR, in accordance with the proposed changes, will not involve a significant increase in the probability or consequences of an accident previously evaluated.*

The additional surveillance requirements are to be performed during reactor shutdown conditions and will add further assurance that HPCS and ACS systems will perform as designed if called upon. The existing design specification states that the HPCS system shall be capable of manual start only if a full scram signal exists, but no surveillance was required to demonstrate this feature. Addition of the surveillance requirement will both demonstrate that the pumps can be started manually and that the design criteria specifying that a full scram signal must exist for the pumps to run if started in manual is met. Therefore, addition of these surveillance requirements will not increase the probability or consequences of an accident previously analyzed.

Requiring the low pressure core spray mode of HPCS to be operable during Operational Condition 4, without the exceptions listed in the previous submittal, can only increase the probability it will be available to mitigate the consequences of an accident. This more strigent requirement cannot increase the probability of an accident.

Clarification of the bases for ACS and deletion of Section 2.4.7 are strictly administrative type changes. The former results in a clear statement of the design capability of the ACS system. The latter eliminates redundancy. Therefore, neither of these administrative changes affects the probability or consequences of any type of accident.

2. *Operation of LACBWR, in accordance with the proposed changes, will not create the possibility of a new different kind of accident from any accident previously analyzed.*

Performing the additional surveillance on this installed equipment during reactor shutdown cannot create a new or different kind of accident. The more stringent applicability requirement for the low pressure core spray mode of HPCS does not require operation in any new manner; just operability during additional conditions. Therefore, this additional requirement cannot cause a new type of accident, the administrative type changes do not affect operation in any way and so cannot cause any type of accident.

3. *Operation of LACBWR, in accordance with the proposed changes, will not involve a significant reduction in the margin of safety.*

The additional surveillances are to be performed during reactor shotdown and so, will not involve a significant reduction in the margin of safety. Performing the surveillances will help ensure that the equipment will perform as designed if needed. Requiring the low pressure core spray mode to be operable during additional conditions can only improve, not reduce, the margin of safety. The administrative changes will have no affect on the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with licensee's analysis. Based upon this review, the staff has made a proposed determination that the application for

amendment involves no significant hazards consideration.

Local Public Document Room location: La Crosse Public Libarary, 800 Main Street, La Crosse, Wisconsin 54601.

Attorney for licensee: Roy P. Lessy, Jr.; O.S. Heistand; Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: John A. Zwolinski.

Dairyland Power Cooperative, Docket No. 50–409, La Crosse Boiling Water Reactor, Vernon County, Wisconsin

Date of amendment request: February 21, 1986.

Description of amendment request: The licensee's proposed amendment contains six specific requests described below.:

(1) The current operating requirements for the La Cross Boiling Water Reactor (LACBWR) electrical power system is contained in Section 4.2.3 of the Technical Specifications, while the disign of the electrical power supply is described in Section 2.6. The licensee proposes a two-step modification of these sections: (a) To delete Section 2.6 entirely and add it as the new bases for Section 4.2.3; and (b) to clarify and correct the description of the electrical power system in the new proposed bases. One of the proposed corrections is deletion of mention of the rotary inverter as a power supply to the 120 volt AC Non-interruptiable Bus 1B.

(2) The licensee requests that the aforementioned proposed bases be effective upon completion of the planned 1C Non-interruptible Bus modification, including installation of the static transfer switch.

(3) Several wording changes are requested in the bases portion of Technical Specification Section 4/5.2.25 on safety values. Revisons include changing pressures expressed in psia to psig. Additionally, because new data indicate that the turbine trip without bypass transient results in a peck pressure greater than the design basis main steam isolation valve closure transient, the turbine trip is discussed as the most limiting pressure transient.

(4) The licensee requests a minor wording change regarding reactor coolant chemistry in Specification 4.2.2.2. to help ensure that plant personnel will uniformly interpret the necessary actions to be taken.

(5) A new testing and monitoring schedule for area radiation monitors is being proposed. The new schedule would change the testing frequency of the monitors from bi-weekly to quarterly, and the calibration frequency from each refueling outage to at least once per 18 months.

(6) The licensee also requests that updated LACBWR Facility Organization chart, figure 6.2.2–1 of Technical Specifications, replace the old chart.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists for a proposed license amendment as stated in 10 CFR 50.92(c). The licensee has analyzed the proposed changes using the standards in 10 CFR 50.92 and concludes that the proposed amendment contains no significant hazards considerations. This conclusion has been reached because:

Operation of LACBWR in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Transferring the updated electrical system description from the design section to the bases of the operability specifications, Item (1), is an editorial change. The operational requirements and surveillance of electrical systems will not be changed.

Revision the reactor coolant chemistry specification wording, Item, (4), is strictly an editorial change. The revision clarifies, without changing, the actions to be taken if the coolant conductivity and chloride concentration are above the normal limits.

Changes the functional test and calibration frequency for the installed area radiation monitors, Item (5), to coincide with the effluent monitors' test and calibration frequency does not cause a significant increase in the probability or consequences of an accident. The proposed change only affects the normal area radiation monitors, not the post-accident monitors, addressed by Specification 5.5.2. Because area radiation monitors have no automatic functions except for alarm capability, they cannot cause or change the consequences of an accident.

Insertion of the revised chart, Item (6), will update Technical Specifications but will have no affect on minimum shift staffing specifications, and thus cannot cause or change consequence of an accident.

Operation of LACBWR in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

Updating and relocating the description of the electrical system from the sesign section to the basis of the electrical system, Item (1), does not change any mode of operation.

Clarifying the wording of the reactor coolant chemisty specification, Item (4), without changing the requirements cannot create the possibility of a new type of accident.

Changing the test and calibration frequency of area radiation monitors, Item (5) having no control function and no automatic function, except for alarm capability, cannot create the possibility of a new type of accident.

Insertion of the revised organizational chart, Item (6), is an administrative change. Because minimum shift staffing is not affected and the organizational changes do not affect any mode of plant operation, creating the possibility of a new kind of accident is not possible.

Operation of LACBWR in accordance with the proposed amendment will not involve a significant reduction in margin of safety.

Editorial changes, Items (1) and (4), do not affect the margin of safety.

Decreasing the testing and calibration frequency of the area radiation monitors, Item (5), does not decrease the margin of safety, since the monitors have no safety function.

Since minimum shift staffing is not being changed, updating the plant organization chart, Item (6), has no effect on the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that this action involves no significant hazards consideration.

Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Attorney for licensee: Roy P. Lessy, Jr.; O. S. Heistand; Morgan, Lewis & Bockius, 180 M Street, NW., Washington, DC 20036.

NRC Project Director: John A. Zwolinski.

Dairyland Power Cooperative, Docket No. 50–409, La Crosse Boiling Water Reactor, Vernon County, Wisconsin

Date of amendment request: April 7, 1986.

Description of amendment request: The proposed amendment would modify the existing specifications regarding primary coolant iodine spike reporting, and eliminate the 800 hour per 12-month period cap for exceeding activity limits.

Specifically, the licensee proposes to: (1) Eliminate discussion of requirements if Dose-Equivalent I–131 activity exceeds the normal limit for more than 800 hours per 12-month period or 500 hours per 6-month period; (2) eliminate

discussion of requirements if offgas activity exceeds the normal limit for more than 800 hours per 12-month period or 500 hours per 6-month period; (3) remove paragraph on Reportable Occurrence reports from reactor coolant activity specification; (4) eliminate discussion of Special Report from reactor coolant activity specification; (5) add section to annual report requirements; (6) remove the unique limits for Cycles 6 and 7 from the reactor coolant activity specification, since they are no longer applicable; and, (7) correct a typographical error in the reactor coolant activity specification.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). The licensee has presented its determination of no significant hazards considerations as follows:

1. *Operation of LACBWR in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.*

The proposed change is in response to Generic Letter No. 85–19. The allowable primary coolant activity is not being changed, so the consequences of an accident will not be different. The requested revision to reporting requirements is a strictly administrative change and cannot affect the probability or consequences of an accident. Per the Generic Letter, the requirement for action if iodine activity limits are exceeded for 800 hours in a 12-month period is unnecessary, since proper fuel management and existing reporting requirements should preclude ever approaching the limit. The same is true for offgas activity limits. Therefore, the proposed amendment will not result in a sigificant increase in the probability or consequences of an accident previously evaluated.

2. *Operation of LACBWR in accordance with the proposed amendment will not create the possibility of a new different kind of accident from any accident previously evaluated.*

The proposed change is in response to Generic Letter 85–19. No mode of operation or primary coolant activity limits are being changed. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated.

3. *Operated of LACBWR in accordance with the proposed amendment will not involve a significant reduction in the margin of safety.*

The proposed change is in response to Generic Letter No. 85–19. The primary coolant activity limits are not being changed. The activity limits being removed applied only to Cycles 6 and 7. As discussed in the Generic Letter, proper fuel management and existing reporting requirements should preclude approaching 800 hours per 12-month period above normal activity limits, so the requirements for action if 800 hours is exceeded is unnecessary. The same is true for 500 hours per 6-month period. The type of report used for reporting activity above the limits does not affect the margin of safety. Excessive fuel degradation is required to be reported by 10 CFR 50.72 and 10 CFR 50.73. Therefore, the proposed amendment will not involve a significant reduction in the margin of safety.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that this action involves no significant hazards consideration.

Local Public Document Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Attorney for licensee: Roy P. Lessy, Jr.; O.S. Heistand; Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: John A. Zwolinski.

Dairyland Power Cooperative, Docket No 50–409, La Crosse Boiling Water Reactor, Vernon County, Wisconsin

Date of amendment request: April 7, 1986.

Description of amendment request: The amendment would modify the Technical Specifications (TS) to reflect the reorganization of the management staff and to update the offsite organization chart.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c).

The licensee has presented its determination of no significant hazards considerations as follows:

We have reviewed the hazards considerations referenced in 10 CFR 50 Sections 91 and 92 and have determined that with these criteria, no significant hazards considerations result from this proposed amendment.

1. *Operation of LACBWR in accordance with the proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.*

No method of operation is being affected. This change moves responsibilities from one senior management position which has been eliminated, to another and changes a title. The respsonsibilities remain the same. Therefore, the proposed amendment will not result in a significant increase in the probability or consequences of an accident previously evaluated.

2. *Operation of LACBWR in accordance with the proposed amendment will not create the possibility of a new or different kind of accident from any accident previously evaluated.*

No method or limits of operation are being changed, so a new kind of accident cannot be created by this change. Therefore, the proposed amendment will not create the possibility of a new or different kind of accident from any previously evaluated.

3. *Operation of LACBWR in accordance with the proposed amendment will not involve a significant reduction in the margin of safety.*

No method or limits of operation are being changed, therefore, the margin of safety won't be reduced. A senior management official, the General Manager, is assigned the same responsibilities as was the Assistant General Manager-Power Group. The goal of having a senior management official involved in the nuclear plant activities will still be met. Therefore, the proposed amendment will not involve a significant reduction in the margin of safety.

As determined by the analysis above, this amendment has no significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Based upon this review, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Documents Room location: La Crosse Public Library, 800 Main Street, La Crosse, Wisconsin 54601.

Attorney for licensee: Roy P. Lessy, Jr.; O. S. Heistand; Morgan, Lewis & Bockius, 1800 M Street, NW., Washington, DC 20036.

NCR Project Director: John A. Zolinski.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50–321 and 50–366 Edwin I. Hatch Nuclear Plant, Unit Nos. 1 and 2, Appling County, Georgia

Date of amendment request: January 27, 1986.

Description of amendment request: These amendments would modify the Technical Specifications tables and footnotes related to monitoring radioactive gas effluents (Table 4.15.2.1 for Unit 1 and Table 4.11.2–1 for Unit 2) to: (1) Reduce the required frequency of estimating the flowrates, when less than the required minimum number of effluent monitoring flowrate instrument channels are operable, from once per 4 hours to once per 24 hours; (2) delete the requirement that grab samples of releases from the main stack and reactor building vents be analyzed for tritium activity levels following shutdown,

startup or thermal power changes exceeding 15 percent of the rated thermal power; (3) change the requirement for additional monitoring of principal gamma emitters so that additional monitoring is not required unless the dose equivalent iodine concentration in the primary coolant increases by more than a factor of three and greater than 0.02 micro-curries per gram; and (4) add a time frame requirement for performance of the additional activity analyses of the principal gamma emitters.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operation license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The probability of occurrence or the consequences of an accident or malfunction of equipment important to safety are not increased above those analyzed in the FSAR fue to these changes because they do not affect the mode of operation for function of any safety system.

The possibility of an accident or malfunction of a different type than analyzed in the FSAR does not result from these changes because this proposal does not change the mode of operation of any safety system.

The principal gaseous radioactive releases are though the mainstack and the flow through the mainstack is relatively constant. The releases are controlled to stay within the 10 CFR Part 50 Apendix I limits. Changing the frequency of estimating the flows through the release points as noted above in change 1 is therefore not expected to significantly change the margin of safety.

The margin of safety is not significantly reduced due to change 2, as discussed above, because tritium levels in BWRs are fairly low and do not significantly change during power level changes. FSAR section 11.1.3 identifies the primary source of tritium in a BWR as the activation of deuterium. Although the rate of tritium production due to activation is dependent upon power, it will not significantly change during the conditions described. In addition, Regulatory Guide 1.21 only requires that the tritium concentration be determined monthly for continuous releases.

The margin of safety is not significantly reduced due to change 3, as discussed above. because the change will eliminate redundant testing. Revising the footnotes to require additional testing after power level changes if the dose equivalent iodine increases by more than a factor of three and greater than 0.02 micro-curries per gram is similar to the Standard Radiological Effluent Technical Specifications for BWRs. The dose equivalent iodine (DEI) level is chosen to indicate a statistically significant increase above background while still being 10 percent of the Technical Specification limit. If the level should increase to a factor of three beyond a starting point of 0.02 micro-curries per gram the resultant level would still only be 30 percent of the allowable DEI and give sufficient time for remedial action.

The margin of safety is not reduced due to change 4, as discussed above, because the addition of a time limit for performing surveillance is more restrictive. The change is made to prevent a possible misinterpretation that the sample should be taken at all points before the gaseous radioactive effluent in question could reasonably be expected to be available for sampling.

On the basis of the above, the Commission has determined that the requested amendments meet the three criteria and therefore has made a proposed determination that the amendment application does not involve a significant hazards consideration.

Local Public Document Room location: Appling County Public Library, 301 City Hall Drive, Baxley, Georgia.

Attorney for licensee: Bruce W. Churchill, Shaw, Pittman, Potts & Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: Daniel Muller.

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Dockets Nos. 50321 and 50366, Edwin I. Hatch Nuclear Plant, Units Nos. 1 and 2, Appling County, Georgia

Date of amendment request: February 17, 1986.

Description of amendment request: These amendments would modify Section 6.1 and Figure 6.2.1–1 of Appendix 'A' Technical Specifications and Figure 5.2–1 of Appendix 'B' Environmental Technical Specifications, as appropriate, as well as the applicable parts of Section 5 of Appendix 'B' to: (1) Add the title and position of Senior Vice President Nuclear Operations. The Senior Vice President Nuclear Operations has assumed all of the functions for Plant Hatch formerly assigned to the Senior Vice President Nuclear Power. (2) Change the title of the Manager of Nuclear Chemistry and Health Physics to Manager of Radiological Safety, and indicate his responsibility for the Radiological Environmental Monitoring Program and management oversite of the Health Physics Program. (3) Eliminate the Manager Nuclear Engineering and Chief Nuclear Engineer's responsibility for elements of the Environmental Monitoring Program. (4) Change the title of Manager Nuclear Engineering and Chief Nuclear Engineer to Manager Nuclear Safety and Licensing. The position reports to the Senior Vice President Nuclear Operations. (5) Change of title and responsibilities of the General Manager Quality Assurance and Radiological Health and Safety to General Manager Quality Assurance. Concurrent with the change in title for the General Manager Quality Assurance, the Manager of Radiological Safety has assumed responsibilities similar to the Radiological Health and Safety Representative. (6) Remove the position of Radiological Health and Safety Representative from the organizational chart. (7) Remove the position of Vice President and Chief Engineer Power Supply Engineering and Services from the Engineering and Construction Services Department organization. (8) Change the title of Hatch Project Manager to Manager Nuclear Projects and move the position from the Engineering Department to the Nuclear Operations Department. Concurrent with the move of the Manager Nuclear Projects, the title of Manager Engineering Services is being removed from the organizational charts. (9) Indicate that the position of Manager Nuclear Training now reports to the Senior Vice President Nuclear Operations. (10) Remove the position of Manager Nuclear Generation, which has been vacant, from the organizational charts. (11) Remove the designation of "corporate responsibility for fire protection" from the Technical Specifications organizational charts. This designation, while required by Appendix R of 10 CFR part 50 for the Fire Plan, is not required for Technical Specifications. (12) Add nine positions to the offsite organization chart. These are: Manager Nuclear Support, Manager Nuclear Performance, Manager Engineering Liaison, Manager Maintenance and Modification, Nuclear Safety Reviews Manager, Nuclear Safety Manager, Nuclear Licensing

Manager—Hatch, Nuclear Licensing Manager—Vogtle, and General Manager Plant Vogtle. (13) Amend the responsibilities of the Plant Review Board to limit review of Technical Specification violations to those which have been determined to be reportable. (14) Change the PRB responsibility for review of events for written notifications to the Commission to those that are required by Technical Specifications and/or 10 CFR 50.73. (15) Change one of the members of the PRB from the Superintendent of Maintenance to the Superintendent of Instrument and Controls. (16) Change the referenced figure in Section 5 of Unit 2 Appendix 'A' Technical Specifications for the exclusion area, low population zone, and site boundary. (17) Clarify the record retention period for certain Quality Assurance documents. This is accomplished by inserting additional wording into Specification 6.10.2.i. (18) Eliminate reference to the Environmental Program Description Document (EPDD) from Appendix 'B' Technical Specifications. The Environmental Program as described by the EPDD is now complete. Therefore, any reference remaining to it in the Technical Specifications is obsolete and confusing. (19) Renumber the Environmental Technical Specifications to accommodate the changes made to the Administrative Section as a result of deletion of the EPDD.

Basis for proposed no significant hazards consideration determination: In accordance with the Commission's Regulations in 10 CFR 50.92, the Commission has made a determination that the proposed amendment involves no significant hazards considerations. To make this determination the staff must establish that operation in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The proposed amendments in this instance do not involve a physical modification of the plant, a change in operating procedures, or a change in any limiting conditions of operation. Rather, the change is administrative, concerning changes in management organization, position titles, position responsibilities, and other administrative corrections. In view of the administrative nature of the proposed amendments, none of the criteria enumerated above apply.

Based on the foregoing, the Commission has made a proposed determination that the application for amendments involves no sigificant hazards considerations.

Local Public Document Room Location: Applying County Public Library, 301 City Hall drive, Baxley, Georgia.

Attorney for licensee: Bruce W. Churchill, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: Daniel R. Muller.

Indiana and Michigan Electric Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of amendment request: March 14, 1986.

Description of amendment request: The proposed amendment would revise the Technical Specifications to change the HVAC Charcoal Filter Fire Suppression Systems to a manual mode of operation. The current automatic mode allows water up to the automatic valve and undetected leakage at that point has led to charcoal damage and filter failure.

Basis for proposed no significant hazards consideration determination: The HVAC charcoal filter located at the control room is to provide protection for the reactor operators in the unlikely event of a significant radiation release. The fire suppression system on these filters is to control a filter fire. At the Donald C. Cook Nuclear Plant, the automatic actuation on the fire suppression system has experienced leaks which allows water to soak and damage the charcoal filter. The proposed amendment will allow an upstream manual valve on the fire suppression system to be closed and would require operator action to open in the event a charcoal filter fire were to occur. The downstream automatic control will remain for further protection, i.e., if the manual valve were to be opened and there was no filter fire, the automatic valves would prevent the water spray and damage to the filter.

The accident evaluated within the charcoal filter which would be affected by the proposed action is limited to a charcoal fire. The control room operators would be immediately aware of a fire either from alarms or smoke from the air system. There would be little difference in the time for activating the spray system and this additional time would not significantly change the consequences of the filter fire. The change would not significantly increase the probabilities or consequences of the accident nor would it create the probability of a new or different kind of accident from any previously evaluated. There may be an insignificant increase in the time to actuate fire suppression however, by reducing the likelihood of leaks and inadvertent damage to the charcoal filter, the full safety potential for the filter is returned. We, therefore, have determined that the proposed change does not significantly reduce a margin of safety.

Based on the above consideration, the Commission proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: B.J. Youngblood.

Mississippi Power & Light Company, Middle South Energy, Inc., South Mississippi Electric Power Association, Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of amendment request: March 31, 1986.

Description of amendment request: The amendment would change the facility Technical Specifications to allow power operation with a single recirculation loop in operation and would add a new specification for neutron flux monitoring instrumentation to be used to detect and suppress power oscillations during single loop operation.

The changes to the Technical Specifications for single loop operation would include an increased minimum critical power ratio limit, changes to the average power range monitor reactor trip and control rod block setpoints, changes to the power distribution limits, and changes to the recirculation loop specifications.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from

any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has provided an analysis of significant hazards considerations in its March 31, 1986, request for a license amendment. The licensee has concluded with appropriate bases, that the proposed amendment satisfies the three standards in 10 CFR 50.92 and, therefore, involves no significant hazards considerations. The NRC staff has made a preliminary review of the licensee's submittal. The proposed changes would allow operation of the plant with only one recirculation loop in operation. The present Technical Specifications require plant shut down if one recirculation loop is inoperable. Implementation of the increased power oscillation surveillances will assure that oscillation is detected and suppressed and provides assurance that single loop operation can be performed safely. The licensee has analyzed accidents and transients considering single loop operation to determine reactor trip and control rod block setpoints and the minimum critical power ratio safety limit. The criterion used for these analyses is to maintain the same margin of safety during single loop operation as that which presently exists during two loop operation.

A discussion of the standards in 10 CFR 50.92 as they relate to this amendment follows.

Standard 1—Involve a significant increase in the probability or consequences of an accident previously evaluated.

The additional surveillance requirement to detect and suppress power oscillations offsets the larger probability for such oscillations with single loop operation. Therefore the proposed amendment would not involve a significant increase in the probability of an accident previously evaluated.

The results of the licensee's analyses for single loop operation show that:

(1) Loss of coolant accident (LOCA) analyses for single loop operation result in a more severe peak clad temperature (PCT). The maximum average power linear heat generation rate (MAPLHGR) limits have been reduced in order to maintain PCT below 10CFR50.46 limits. The decreased MAPLHGR limits are equivalent to a 300°F–500°F decrease in PCT for large pipe breaks. The small pipe break LOCA analyses resulted in an increase in PCT of about 50°F. The reduced MAPLHGR limits developed from the large break LOCA analysis more than offset the small increase in PCT due to the small break LOCA.

(2) The containment response for the design basis accident with single loop operation is bounded by the rated power, two-loop operation analysis presented in the Grand Gulf Nuclear Station Final Safety Analysis Report (FSAR) Section 6.2. For single loop operation, the differential peak drywell and wetwell pressures of 19.8 pounds per square inch gauge (psig) and 6.3 psig, respectively are less than the 22 psig and 9.9 psig results noted in the FSAR Section 6.2.

(3) All anticipated-transient-without-scram (ATWS) acceptance criteria are met during single loop operation. Because the initial power-flow condition is less during single loop operation that the rated power—flow condition for which the previous analysis was made, the transient response is less severe.

(4) The average power range monitor (APRM) reactor trip and control rod block setpoints are modified to account for reverse flow through the inactive loop jet pumps. The flow is in a reverse direction when the operating loop is producing high flow rates. Therefore, the APRM equations were conservatively modified considering reverse flow over the range of single loop flows. The modification maintains the same drive flow versus power relationship during single loop operation as is presently provided during two loop operation.

(5) Fuel thermal and mechanical performance for transient events occurring during single loop operation are within the fuel design bases. Reverse flow through the jet pumps in the inactive loop causes increased vibrations as evidenced by APRM flux noise and core plate differential pressure noise. Both of these indications of vibrations were analyzed and it was concluded that the vibrations are within the fuel mechanical limits. Based on these evaluations, the licensee concluded, and staff agrees, that single loop operation with the proposed Technical Specification changes does not involve a significant increase in the consequences of an accident previously evaluated.

Standard 2—Create the possibility of a new or different kind of accident from any accident previously evaluated.

The additional surveillance requirements do not require any change to plant design or operation. The remedial actions to suppress power oscillations involve normal plant operating practices. Therefore, the possibility of a new or different accident is not created by the addition of this Technical Specification. The idle recirculation pump start transient was previously analyzed in the FSAR. The licensee found that the MCPR remains above the safety limit for this transient. As summarized above, the other accidents and transients described in the FSAR were evaluated for single loop operation in the March 31, 1986 submittal. No new or different kind of accidents relative to the accidents previously evaluated were found.

Standard 3—Involve a significant reduction in a margin of safety.

The additional surveillance requirement provides a means for detecting and suppressing power oscillations to maintain the fuel within its safety limits when operating with a single recirculation loop. The changes in setpoints for reactor trips and control rod blocks and the MCPR safety limit during single loop operation are based on maintaining the same margin of safety which is presently available during two loop operation. Therefore, the proposed changes do not involve a significant reduction in a margin of safety.

Accordingly, the Commission proposes to determine that the proposed changes do not involve significant hazards considerations.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39154.

Attorney for licensee: Nicholas S. Reynolds, Esquire, Bishop, Liberman, Cook, Purcell and Reynolds, 1200 17th Street, NW., Washington, DC 20036.

Project Director: Walter R. Butler.

Niagara Mohawk Power Corporation, Docket No. 50–220, Nine Mile Point Nuclear Station, Unit No. 1, Oswego County, New York

Date of amendment request: January 3, 1986.

Description of amendment request: The proposed amendment would modify the Technical Specifications (TS), Table 3.6.14–1 and Notes for Table 3.6.14–1, to include the addition of an explanatory phrase to clarify the intention of the phrase "at all times". The addition of footnote (i) states that the intention of this phrase is to continuously monitor the Service Water System effluent line by alternately sampling the reactor building and turbine building service water return lines for approximately 15 minute intervals.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c).

The licensee has presented its determination of no significant hazards consideration as follows:

10 CFR 50.91 requires that at the time a licensee requests an amendment, it

must provide the Commission its analysis, using the standards in Section 50.92 about the issue of no significant hazards consideration. Therefore, in accordance with 10 CFR 50.91 and 10 CFR 50.92, the following analysis has been performed:

The proposed amendment in accordance with the operation of Nine Mile Point Unit 1 will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment incorporates an explanatory phrase clarifying the intent of the technical specification requirement. This phrase provides for the alternate sampling of the reactor building and turbine building service water return lines. The alternate sampling provides more information than continuously sampling both lines with one monitor because it can diagnose which system may be leaking. Therefore, the proposed amendment will invoke a significant increase in the probability or consequences of an accident previously evaluated.

The proposed amendment in accordance with the operation of Nine Mile Point Unit 1 will not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment merely clarifies the already existing phrase "at all times." Interpreting the phrase to include monitoring conducted with approximate fifteen minute time intervals on alternate return lines does not create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment in accordance with the operation of Nine Mile Point Unit 1 will not involve a significant reduction in margin of safety.

The method of alternately sampling the service water return lines of the turbine and reactor building will provide the necessary monitoring and additional diagnostic data. Therefore, the proposed amendment will not involve a significant reduction in a margin of safety.

As determined by the analysis above, this proposed amendment involves no significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, the staff proposes to determine that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: State University College at Oswego, Penfield Library—Documents, Oswego, New York 13126.

Attorney for licensee: Troy B. Conner, Jr., Esquire, Conner & Wetterhahn, Suite 1050. 1747 Pennsylvania Avenue, NW., Washington, DC 20006.

NRC Project Director: John A. Zwolinski.

Northern States Power Company, Docket No. 50–263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of amendment request: February 14, 1986.

Description of amendment request: The proposed amendment would change the expiration date for Operating License DPR–22 from June 19, 2007 to September 8, 2010.

The current licensed term for Monticello is 40 years commencing with issuance of the construction permit (June 16, 1967). Accounting for the time that was required for plant construction, fuel loading and startup testing, the effective period of the license is 36 years and 9 months. The licensee's application requests a 40-year operating license term for Monticello. The licensee believes that the useful life of the Monticello plant is significantly more than 40 years requested in this license amendment application and is currently involved in a Plant Extension Program (PLEX) pilot project at Monticello.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards determination exists as stated in 10 CFR 50.92(c).

10 CFR 50.91 requires that at the time a licensee requests an amendment it must provide to the Commission its analysis, using the standards in 10 CFR 50.92, about the issue of no significant hazards consideration. Therefore, in accordance with the 10 CFR 50.91 and 10 CFR 50.92, the following analysis has been performed by the licensee:

1. The proposed amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated.

The plant was designed and constructed primarily on the basis of 40 years of plant operation. For example, the reactor vessel was designed and fabricated for a 40-year life. Analyses performed as part of the Monticello PLEX pilot program indicate a realistic service life of the reactor vessel of approximately 70 years.

The analyses contained in the Monticello Final Safety Analysis Report were performed primarily on the basis of 40 years of plant operation.

Analyses and information presented in the Monticello Environmental Report, in general, were not dependent on any specific period of plant operation.

Procedures and programs are in place to detect abnormal deterioration and aging of critical plant components. Examples include:

a. Plant pressure retaining vessels, piping, and support systems are inspected in accordance with Section XI of the ASME Boiler and Pressure Vessel Code and 10 CFR Part 50, Section 50.55(g). Safety related pumps and valves are included in a test program meeting the requirements of Section XI of the Code and the plant Technical Specifications.

b. Safety related electrical equipment has been environmentally qualified in accordance with the requirements of 10 CFR Part 50, Section 50.49. Aging analyses establish required intervals for equipment replacement.

c. A number of special inspections and investigations have been performed by the Monticello technical staff providing additional assurance that abnormal or unanticipated degradation will not [be] occurring in components required for safe and reliable plant operation. These inspections have included such items as pipe, valve, and fitting wall thickness measurements in steam lines subject to erosion and inspection of buried cables and piping. Additional inspections of this nature will be identified as part of the Monticello PLEX pilot study.

2. The proposed amendment will not create the possibility of a new or different kind of accident from any accident previously analyzed.

The proposed amendment involves only a change in the expiration date of the Operating License. No safety analyses are affected. No new or different accident type is created. The accident analyses presented in the Updated Safety Analysis Report remain bounding.

3. The proposed amendment will not involve a significant reduction in the margin or safety.

The proposed amendment involves only a change in the expiration date of the Operating License. No safety margins are affected.

The licensing basis of the plant, as described in the Updated Safety Analysis Report and the Environmental report, was 40 years of plant operation.

For the reasons stated above, this license amendment does not involve a significant hazards consideration.

The staff has reviewed the licensee's no significant hazards consideration determination and agrees with the licensee's analysis. Therefore, based on this review, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room location: Environmental Conservation Library, Minneapolis Public Library, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts, and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: John A. Zwolinski.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of amendment request: April 9, 1986.

Description of amendment request: The proposed amendment would add operability and surveillance requirements for new fire suppression equipment in the Compressor Room. The proposed requirements are the same as currently approved requirements for similar fire suppression equipment located in other areas of the plant. Namely, the equipment should be operable and, if not, compensatory measures are called for. The proposed amendment would also correct a heading number on the top of page 3–83 of the technical specifications. The current heading number is 3.19. The correct heading number should be 3.15. The licensee considers this heading number change a clerical change to correct a typographical error.

Basis for proposed no significant hazards consideration determination: The licensee has made a significant hazards consideration determination pursuant to 10 CFR 50.92. The licensee has stated that the changes would not involve a significant increase in the probability or consequences of an accident previously evaluated because: (1) The changes are being made in order to provide operability and surveillance requirements for the new fire suppression system, (2) the changes will provide additional assurance that the probability and consequences of a fire in the compressor room will be reduced, and (3) the clerical change will correct a tyographical error. The licensee also stated that the possibility of a new or different kind of accident previously evaluated would not be created based upon the same arguments discussed above. Finally, the licensee stated that the changes would not involve a significant reduction in a margin of safety because the changes provide an increase in safety by providing assurance of the operability of the fire suppression capability in the compressor room.

The staff has performed a preliminary review of the licensee's no significant hazards consideration analysis and it does appear in our review that a no significant hazards consideration is involved. Based upon the above discussion, the staff proposes to determine that the proposed changes do not involve significant hazards considerations.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Attorney for licensee: LeBoeuf, Lamb, Leiby, and MacRae 1333 New Hampshire Avenue, NW., Washington, DC 20036.

NRC Project Director: Ashok C. Thadani.

Pennsylvania Power & Light Company, Docket No. 50–387 and 50–388, Susquehanna Steam Electric Station, Units 1 and 2, Luzerne County, Pennsylvania

Date of amendment request: March 27, 1986.

Description of amendment request: The licensee in their March 27, 1986, submittal requested a Technical Specification change to support Drywell Cooling Sytem plant modifications in order to enhance the capability of the present Drywell Cooling System. This plant modification is being requested for Unit 2. Unit 1 has already implemented this modification which was previously approved by the staff via Amendment No. 46 to NPF-14. The licensee is also requesting a Technical Specification change for Unit 1. During the review of the Unit 2 changes, it was determined by the licensee that an error contained in Amendment No. 46 allowed as many as six fans to be inoperable for up to 30 days. The licensee is requesting that this error be corrected so that at least one fan from each pair of fans is required to be OPERABLE.

This modification which is being requested for Unit 2, and which has already been approved for Unit 1, entails revising the Limiting Condition for Operation (3/4.6.62) to reflect the replacement of one unit cooler subsystem (consisting of 2 unit cooler fans) with 2 recirculation fans. The subject unit cooler subsystem will now be serving the general drywell area and the new recirculation fans will be replacing the unit cooler subsystem with respect to the unit cooler subsystem's safety-related function of post-LOCA drywell atmosphere mixing. The Action and Surveillance Requirements have been altered to reflect these changes. Technical Specification Table 3.8.4.1–1 has been changed due to the addition of the drywell recirculation fans. Two pairs of Type HFB-TM circuit breakers have been added to Table 3.8.4.1–1 to support recirculation fans 2V418A and B.

Bais for no significant hazards consideration determination: The licensee has stated that:

1. The proposed changes do not involve a significant increase in the probability or consequence of an accident previously evaluated because:

A. Unit 2 Specification 3/4.6.6.2: These changes support design improvements to the Drywell Cooling System. The safety-related aspect of this change is that the post-LOCA hydrogen mixing will now be accomplished by the new recirculation fans, while the old unit cooler subsystem will now serve the general drywell area. The air flow capability of the new recirculation fans is the same as that of the unit cooler fans formerly used for the same purpose.

B. Unit 2 Table 3.8.4.1–1: The additional circuit breakers were added to meet design criteria specified for the additional recirculation fans, i.e., to provide overcurrent protection for primary containment penetration conductors. Therefore, no previous evaluations are affected.

C. Unit 1 Specification 3/4.6.6.3: As described, this change corrects an error which if left uncorrected, would have allowed a previous evaluation, that of post-LOCA hydrogen mixing, to be improperly supported. Therefore, this change ensures that the probability or consequences of an accident previously evaluated will not be degraded.

2. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated because:

A. Unit 2 Specification 3/4.6.6.2: This equipment change is in accordance with existing design criteria and will not adversely affect the function of any system; therefore, no new events should result.

B. Unit 2 Specification 3/4.6.6.2: The addition of these thermal magnetic breakers is in accordance with existing design criteria and will not adversely affect the function of any system; therefore, no new events should result.

C. Unit 1 Specification 3/4.6.6.3: This change corrects an error previously issued and ensures the validity of a related analysis. It does not create the possibility of a new event.

3. The proposed changes do not involve a significant reduction in a margin of safety because:

A. Unit 2 Specification 3/4.6.6.2: As described above, these changes maintain the safety margin currently provided.

B. Unit 2 Table 3.8.4.1–1: These changes ensure the safety margin currently provided for other primary containment penetration conductors.

C. Unit 1 Specification 3/4.6.6.3: As described above, this change will require the intended level of safety margin to be achieved.

The NRC staff agrees with the licensee's evaluation in these regards and proposes to find the proposed changes to not involve a significant hazards consideration.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Attorney for licensee: Jay Silberg, Esquire, Shaw, Pittman, Potts and Trowbridge, 1800 M Street, NW., Washington, DC 20036.

NRC Project Director: Elinor G. Adensam.

Portland General Electric Company, et al., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: December 27, 1985.

Description of amendment request: The application for amendment requests modifications of the Technical Specifications contained in Appendix A to Operating License No. NPF–1. Specifically, the Trojan Technical Specification (TTS) 3.4.1.1 would be modified to require four reactor coolant loops in operation when the plant is operating below the P–7 setpoint. TTS 3.4.1.2 would be revised to require that with any control rod drive mechanism (CRDM) energized all four reactor coolant loops shall be in operation and that with no CRDM's energized, at least two reactor coolant loops shall be OPERABLE with one reactor coolant loop in operation. A new Surveillance Requirement would be added to TTS 4.4.1.2 to require verification that all CRDMs are de-energized every 12 hours if less than four loops are in operation. Additional editorial changes would be made to incorporate this revision into the TTS.

This application for amendment supersedes in its entirety the licensee's application dated November 29, 1984 which was published in the **Federal Register** February 27, 1985 (50 FR 8000).

Basis for proposed no significant hazards consideration determination: TTS 3.4.1.1 currently requires that two reactor coolant loops be in operation when the plant is operating below the P–7 setpoint (MODES 1 and 2). In addition, TTS 3.4.1.2 currently requires that two reactor coolant loops be OPERABLE, with one loop actually in operation in MODE 3. However, the bank withdrawal from subcritical and low power accident analyses assume four loops in operation. The proposed change would ensure consistency between the TTS and the accident analyses.

The Commission has provided guidance concerning the application of the standards for making a no significant hazards consideration determination by providing examples (48 FR 14870). The examples of actions involving no significant hazards consideration include: (ii) Changes that constitute an additional limitation or restriction or control not presently within the technical specification, e.g., a more stringent surveillance requirement. The changes to TTS 3.4.1.1, 3.4.1.2 and 4.4.1.2, described above, proposed in this application for amendment are encompassed by this example because of the additional limitation and restriction that would be added by this Technical Specification amendment.

Another example of actions involving no significant hazards consideration is: (i) A purely administrative change to technical specifications: for example, a change to achieve consistency throughout the technical specifications, correction of an error, or a change in nomenclature. The additional editorial changes which would be made to incorporate the revisions described above into the TTS are encompassed by this example.

Therefore, since the application for amendment involves proposed changes that are similar to examples for which no significant hazards consideration exists, the staff has made a proposed determination that the application for amendment involves no significant hazards considerations.

Local Public Document Room location: Multnomah County Library, 801 S.W. 10th Avenue, Portland, Oregon

Attorney for licensee: J.W. Durham, Senior Vice President, Portland General Electric Company, 121 S.W. Salmon Street, Portland, Oregon 97204.

NRC Project Director: Steven A. Varga.

Portland General Electric Company, et al., Docket No. 50–344, Trojan Nuclear Plant, Columbia County, Oregon

Date of amendment request: April 11, 1986.

Description of amendment request: The proposed amendment request would delete from the Design Features Section 5.3.1 of the Trojan Technical Specifications (TTS) the maximum fuel rod weight limit of 1,760 grams of uranium. The purpose of the change would be to permit the use of assemblies found to be slightly over the weight limit.

Fuel weights have increased slightly due to recent changes to the fuel design, including chamfered pellets with a reduced dish and use of the integrated dry route process. The weight increases have caused the assembly's averaged fuel rod weight of uranium to exceed the 1,760 gram Technical Specification limit by as much as 13 grams.

Basis for proposed no significant hazards consideration determination: In accordance with the requirements of 10 CFR 50.92, the licensee submitted the following significant hazards consideration determination:

1. Does the proposed license amendment involve a significant increase in the probability or consequences of previously evaluated accidents. The change in fuel rod weight that could occur without a Technical Specification limit is small because other fuel design constraints such as rod diameter, gap size, UO_2 density, fuel active lengths, etc., limit the variation in rod weights. The current safety analyses are not based on fuel rod weights, but more on parameters such as power, thermal conductivity, fuel dimensions, etc. These parameters are either: (1) Not affected at all by fuel rod weight, or (2) are only slightly affected. However, a review of parameters which may be affected indicates that a change in fuel weight does not cause other parameters to exceed the values assumed in the safety analyses, or to cause acceptance criteria to be exceeded. The slight effects are such that the monitored nuclear parameters (power, power distribution, nuclear coefficients, etc) remain within their Technical Specification limits. Thus, it is concluded that the change does not involve a significant increase in the probability or consequences of previously evaluated accident.

2. Does the proposed license amendment create the possibility of a new or different kind of accident from any accident previously evaluated?

Response: The possibility of a new or different kind of accident from any previously evaluated has been considered and is not affected by this change. All of the fuel is contained in the fuel rod which is of the same dimensions and designed to function the same as previous fuel. The existing new and spent fuel criticality analyses bound the changes observed. Therefore, this change does not create the possibility of a new or different kind of accident.

3. Does the proposed amendment involve a significant reduction in a margin of safety?

Response: The margin of safety is maintained by adherence to other Technical Specification limits and the FSAR Design Bases. The deletion of fuel rod weight limits in Technical Specifications Design Features Section 5.3.1 does not directly affect any safety system or safety limits. Because safety margins are maintained by other limiting

Technical Specification, Design Features Section 5.3.1 will not affect the margin of safety.

In the April 6, 1983 **Federal Register**, NCR published a list of examples of amendments that are not likely to involve significant hazards concern. Example No. 6 of that list applies to the deletion of the fuel rod weight limit Technical Specification, and states that: ". . . a change which either may result in some increase to the probability or consequences of a previously-analyzed accident or may reduce in some way a safety margin, but where the results of the change are clearly within all acceptable criteria with respect to the system or component specified in the Standard Review Plan: For example, a change resulting from the application of a small refinement of a previously used calculational model or designed method."

Based on the above analysis, the licensee concluded that the proposed amendment does not involve significant hazards considerations. The staff has reviewed the licensee's significant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards considerations.

Local Public Document Room location: Multnomah County Library, 801 SW. 10th Avenue, Portland, Oregon.

Attorney for licensee: J.W. Durham, Senior Vice President, Portland General Electric Company, 121 SW. Salmon Street, Portland, Oregon 97204.

NRC Project Director: Steven A. Varga.

Power Authority of the State of New York, Docket No. 50–333, James A. FitzPatrick Nuclear Power Plant, Oswego, County, New York

Date of amendment request: January 21, 1986.

Description of amendment request: The proposed amendment would modify the Technical Specifications (TSs) to permit the appointment of an Alternate Vice-Chairman to the Safety Review Committee (SRC). The proposed change would facilitate the holding of SRC meetings in the event the Chairman and Vice-Chairman were unable to attend. The Alternate Vice-Chairman would be appointed in writing by the Executive Vice President-Nuclear Generation, would be a voting member, and have the identical duties and responsibilities of the Vice-Chairman. The current TS permit up to two alternate voting members of the SRC at any one time.

Basis for proposed no significant hazards consideration determination: In accordance with the Commission's Regulations in 10 CFR 50.92, the Commission has made a determination that the proposed amendment involves no significant hazards considerations. To make this determination the staff must establish that operation in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The proposed amendment in this instance does not involve a physical modification of the plant, a change in operating procedures, or a change in any limiting conditions of operation. Rather, the change is administrative, concerning changes in management organization, position titles, position responsibilities, and other administrative corrections. In view of the administrative nature of the proposed amendment, none of the criteria enumerated above apply.

Based on the foregoing, the Commission proposes to determine that the proposed license amendment does not involve a significant hazards consideration.

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Attorney for licensee: Mr. Charles M. Pratt, Assistant General Counsel, Power Authority of the State of New York, 10 Columbus Circle, New York, New York 10019.

NRC Project Director: Daniel R. Muller.

South Carolina Electric and Gas Company, South Carolina Public Service Authority, Docket No. 50–395, Virgil C. Summer Nuclear Station, Unit 1, Fairfield County, South Carolina

Date of amendment request: August 2, 1985.

Description of amendment request: The amendment would change the duration of the Operating License (NPF–12) from 31 years to 40 years. This will change the license expiration date from midnight on March 21, 2013 to midnight on August 6, 2022.

Basis for proposed no significant hazards consideration determination: Plant equipment, components and structures were designed considering a 40 year service life of the plant. Some equipment, such as Class 1E electrical components, was designed for 40 years of service life. The equipment required to function post accident was designed to operate an additional year assuming an accident occurred during the 40th year of operation. Other equipment is not expected to last for a full 40 years; however, in those cases surveillance and maintenance procedures were implemented into the plant operation to assure that degradation is promptly identified and corrective actions are taken. Those procedures were designed according to various industry codes and the plant Technical Specifications to ensure that plant structures, equipment and components would operate safely and as designed.

The Commission has provided certain examples (48 FR 14870) of actions likely to involve no significant hazards considerations and examples of actions likely to involve significant hazards considerations. The request involved in this case does not match any of those examples. However, the staff has reviewed the licensee's request for the above amendment and determined that should this request be implemented, it will not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated because plant equipment, components, and structures were designed considering a 40 year service life, or (2) create the possibility of a new or different kind of accident from any accident previously evaluated because the physical plant design is not being changed. Also, it will not (3) involve a significant reduction in a margin of safety because surveillance and maintenance procedures are implemented into the plant operation to assure that degradation is promptly identified and corrective actions are taken. Accordingly, the Commission proposes to determine that this change does not involve significant hazards considerations.

Local Public Document Room location: Fairfield County Library, Garden and Washington Streets, Winnsboro, South Carolina 29180.

Attorney for licensee: Randolph R. Mahan, South Carolina Electric and Gas Company, P.O. Box 764, Columbia, South Carolina 29218.

NRC Project Director: Lester S. Rubenstein.

Virginia Electric and Power Company, Docket Nos. 50–338 and 50–339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: December 11, 1985.

Description of amendment request: The proposed change would amend Licenses NPF–4 and NPF–7 for NA–1&2, respectively, by adding a paragraph to the licenses that requires the

implementation of the Virginia Electric and Power Company's (VEPCO) Integrated Implementation Schedule Plan (the Plan). The Plan provides a summary description of the mechanisms for changing and updating the implementation schedules developed under VEPCO's Integrated Implementation Schedule, the responsibilities of the NRC and VEPCO's staff with respect to the Plan and the mechanisms for modifying the requirements of the Plan. The implementation schedules are not a part of the Plan. This change results in additional controls on project and commitment management that are not presently included in the license. In addition, the proposed change is consistent with the NRC guidance suggested in Generic Letter 83–20 dated May 9, 1983 and Generic Letter 85–07 dated May 2, 1985.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR Part 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The proposed amendments and the Plan are administrative in that they commit to and provide the ground rules for negotiating schedules for major projects or commitments of interest to both VEPCO and the NRC. The proposed amendments do not change in any way the design or operation of the station. Consequently, the changes do not: (1) Increase the probability of occurrence or the consequence of an accident or malfunction, (2) create the possibility of a different type of accident other than discussed in the NA–1&2 Final Safety Analysis Report; and (3) reduce the margin of safety as defined in the basis for any Technical Specifications.

Therefore, the NRC staff proposes to determine that the standards for determining that the proposed changes involve no significant hazards consideration are met, and that operation of the facility in accordance with the proposed changes would not involve a significant hazards consideration.

Local Public Document Room location: Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton, Williams, Gay and Gibson, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Lester S. Rubenstein.

Wisconsin Public Service Corporation, Docket No. 50–305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of amendment request: April 15, 1986.

Description of amendment request: The proposed amendment would revise the Kewaunee Technical Specifications (TS) Section 4.6, "Periodic Testing of Emergency Power System," by correcting an error in the surveillance tests of emergency diesel generators. The current TS require monthly testing of the diesels at 112 percent of nominal power rating which is in error. The current TS incorrectly cite paragraphs 6.4.1 and 6.4.3 of IEEE 387–1977 for the diesel loading and test duration. This change would bring the load to nominal power, which is called for in Paragraph 6.6.1 of IEEE 387–1977 and endorsed by NRC Regulatory Guide 1.108.

Basis for proposed no significant hazards consideration determination: The Commission has provided guidance concerning the application of the standards for determining whether a significant hazards consideration exists by providing certain examples (48 FR 14870). The examples of actions involving no significant hazards consideration include: (1) A purely administrative change to the Technical Specifications; for example, a change to achieve consistency throughout the Technical Specifications, correction of an error, or a change in nomenclature.

Therefore, since the application for amendment involves a proposed change that is similar to an example for which no significant hazards considerations exist, that is, an error correction, the Commission proposes to determine that the proposed amendment involves no significant hazards consideration.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Attorney for licensee: Steven E. Keane, Esquire, Foley and Lardner, 777 E. Wisconsin Avenue, Milwaukee, Wisconsin 53202.

NRC Project Director: George E. Lear.

Yankee Atomic Electric Company, Docket No. 50–029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of amendment request: September 30, 1985, as modified January 20, 1986.

Description of amendment request: The proposed change would modify the Technical Specifications to: (1) Delete the requirement for performing I–131 analyses on surface water samples; and (2) clarify the TS audit requirements and references for effluent and environmental monitoring.

Basis for proposed no significant hazards considering determination: Current Yankee TS require performing routine analyses for I–131 on surface water samples. The anlaysis is performed to confirm that ingestion of I–131 does not occur through surface water that is being used as a drinking water supply source. Since the surface waters that are sampled are not used for supplies of drinking water, deletion of the requirement to perform routine analysis for I–131 on surface water samples will not change the licensee's routine monitoring of radioactive effluents' effects on the public.

The Commission has provided guidance concerning the application of standards for making a no significant hazards consideration determination by providing certain examples (April 6, 1983, 48 FR 14870). Example (i) of actions involving a no significant hazards consideration involves a purely administrative change to technical specifications: for example a change to achieve consistency throughout the TS, correction of an error, or a change in nomenclature.

The wording of the licensee's current TS regarding audit and procedural requirements for Radioactive Effluent Technical Specifications (RETS) are potentially confusing. The current wording regarding audits implies that the audit is to determine whether or not the licensee's Quality Assurance Program includes the provisions of specific Regulatory Guides. The wording is being modified to require audits of the performance of activities affecting quality, making the audit consistent with the intent of the licensee's Quality Assurance Program. This administrative change is to provide consistency in the Administrative section of the TS, and is consistent with Example (i).

Based on this discussion, the staff proposes to determine that the

requested action would not involve a significant hazards consideration.

Local Public Document Room Location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Attorney for licensee: Thomas Dignan, Esquire, Ropes and Gray, 225 Franklin Street, Boston, Massachusetts 02110.

NRC Project Director: George E. Lear.

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices because time did not allow the Commission to wait for this bi-weekly notice. They are repeated here because the bi-weekly notice lists all amendments proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the **Federal Register** on the day and page cited. This notice does not extend the notice period of the original notice.

Indiana and Michigan Electric Company, Docket No. 316, Donald C. Cook Nuclear Plant, Unit 2, Berrien County, Michigan

Date of amendment request: March 14, 1986, and March 27, 1986.

Brief description of amendment: The proposed Technical Specification changes are related to the Unit 2 cycle 6 reload, additional provisions consistent with safety analyses, clarifications to make Unit 2 Technical Specifications consistent with Unit 1 and the Standard Technical Specifications, and editorial corrections.

Date of publication of individual notice in **Federal Register:** April 9, 1986 (51 FR 12249).

Expiration date of individual notice: May 9, 1986.

Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Notice of Issuance of Amendment to Facility Operating License

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application 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 amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the **Federal Register** as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see: (1) The applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. 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 local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

Alabama Power Company, Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2, Houston County, Alabama.

Date of application for amendments: November 22, 1985.

Brief description of amendments: Technical Specification Table 4.3–1 Note 9 is modified to clarify that turbine trip surveillance can be done prior to latching the turbine. The change corrects an unintentional error when Table 4.3–1 notations were developed.

Date of issuance: April 15, 1986.

Effective date: April 15, 1986.

Amendment Nos.: 62 and 53.

Facilities Operating License Nos. NPF–2 and NPF–8. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 15, 1986 (51 FR 1869).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 15, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303

Alabama Power Company, Docket Nos. 50–348 and 50–364, Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2, Houston County, Alabama.

Date of application for amendments: November 27, 1985.

Brief description of amendments: Technical Specification (TS) 3.4.9 Action Statement a. is deleted. The change eliminates a shutdown requirement when coolant activity limits are exceeded for a cumulative period of time. Reporting requirements are expanded from a 30-day report to an item in the annual report. The definition of Dose Equivalent Iodine in TS 1.9 is also revised to refer to Regulatory Guide (RG) 1.109. These changes are in accordance with Commission guidance of Generic Letter 85–19 and the cited RG.

Date of issuance: April 16, 1986.

Effective date: April 16, 1986.

Amendment Nos.: 63 and 54.

Facilities Operating License Nos. NPF–2 and NPF–8. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** January 15, 1986 (51 FR 1869).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 16, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Alabama Power Company, Docket No. 50–364, Joseph M. Farley Nuclear Plant, Unit No. 2, Houston County, Alabama.

Date of application for amendment: September 30, 1985, as supplemented March 27, 1986.

Brief description of amendment: Technical Specification Table 4.4–5 and Figures 3.4–2 and 3.4–3 are revised based on analysis of Capsule "U" Reactor Vessel Material Radiation Surveillance Program. Changes are in accordance with 10 CFR Part 50 Appendix G and H and are acceptable for eight Effective Full Power Years of Operation.

Date of issuance: April 21, 1986.

Effective date: April 21, 1986.

Amendment No. 55.

Facility Operating License No. NPF–8. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 4, 1985 (50 FR 49780).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 21, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Arkansas Power & Light Company, Docket No. 50–368, Arkansas Nuclear One, Unit 2, Pope County, Arkansas

Date of Application for Amendment: November 20, 1985 as supplemented January 28, 1986.

Brief Description of Amendment: The amendment revised the Technical Specifications to allow storage of new fuel with a maximum enrichment of 4.1 weight percent U–235 in the new fuel storage racks.

Date of Issuance: April 16, 1986.

Effective Date: April 16, 1986.

Amendment No.: 71.

Facility Operating License No. NPF–6: Amendment revised the Technical Specifications.

Date of Initial Notice in **Federal Register:** March 12, 1986 (51 FR 8585).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 16, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Tomlinson Library, Arkansas Tech University, Russellville, Arkansas 72801.

Commonwealth Edison Company, Docket No. 50–237, Dresden Nuclear Power Station, Unit No. 2, Grundy County, Illinois

Date of application for amendment: March 10, 1986.

Brief description of amendment: The amendment extends the allowable outage period for the Dresden Unit 2/3 (Swing) Diesel Generator (DG) from 7 to 14 days on a one-time-only basis to allow installation of Appendix R modifications on the DG.

Date of issuance: April 28, 1986.

Effective date: April 28, 1986.

Amendment No.: 92.

Provisional Operating License No. DPR–19. The amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 26, 1986 (51 FR 10454).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 28, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Morris Public Library, 604 Liberty Street, Morris, Illinois 60450.

Consolidated Edison Company of New York, Docket No. 50–247, Indian Point Nuclear Generating Unit No. 2, Westchester County, New York

Date of application for amendment: November 19, 1985.

Brief description of amendment: Revises the Technical Specifications to permit the use of higher enrichment reload fuel assemblies and storage of such assemblies both prior and subsequent to their loading in the reactor. The fuel enrichment is revised from 3.5 w/o U-235 to 4.3 w/o U-235.

Date of issuance: April 21, 1986.

Effective date: Immediately, to be implemented with 30 days.

Amendment No.: 111.

Facilities Operating License No. DPR–26: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** February 26, 1986 (51 FR 6821).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 21, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Detroit Edison Company, Docket No. 50–341, Fermi-2, Monroe County, Michigan

Date of application for amendment: December 23, 1985, as supplemented on February 4, 1986, and April 23, 1986.

Brief description of amendment: This amendment revises the Fermi-2, Technical Specifications to reduce, for a limited amount of time for the first fuel load, the minimum permissible source range monitor (SRM) count rate from 0.7 counts per second (cps) to 0.3 cps. This change is reflected in modifications to footnotes relating to the surveillance requirements for minimum permissible SRM count rates and the control rod block trip setpoints. Only those fuel changes required to replace the depleted neutron sources will be permitted. The licensee withdrew its request for amendment that would have reduced the minimum permissible count rate in Technical Specification 3/4.3.7.6 and that amendment request has thus not been acted upon.

Date of issuance: April 25, 1986.

Effective date: April 25, 1986.

Amendment No.: 1

Facility Operating License No. NPF–43: Amendment revised the Technical Specifications.

Dates of initial notice in **Federal Register:** January 29, 1986 (51 FR 3714).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 25, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Monroe County Library System, 3700 South Custer Road, Monroe, Michigan 48161.

Duke Power Company, Docket Nos. 50–369 and 50–370, McGuire Nuclear Station, Units 1 and 2, Mecklenburg County, North Carolina

Date of application for amendments: April 1, 1985, as supplemented October 14, 1985.

Brief description of amendments: The amendments revise a limiting condition for operation and bases associated with Technical Specification 3.7.10.1, Fire Suppression Water System.

Date of issuance: April 17, 1986.

Effective date: April 17, 1986.

Amendment Nos.: 55 and 36.

Facility Operating License Nos. NPF–9 and NPF–17. Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** July 17, 1985 (FR 29009).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 17, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Atkins Library, University of North Carolina, Charlotte (UNCC Station), North Carolina 28223.

Duke Power Company, Dockets Nos. 50–269, 50–270 and 50–287, Oconee Nuclear Station, Units Nos. 1, 2 and 3, Oconee County, South Carolina

Date of application for amendments: November 19, 1985, as revised on January 14, 1986 and February 14, 1986.

Brief description of amendments: These amendments revise the Station's common Technical Specifications (TSs) to support the operation of Oconee Unit 1 at full rated power during the upcoming Cycle 10. The amendments change the following areas: (1) Core Protection Safety Limits (TS 2.1); (2) Protective System Maximum Allowable Setpoints (TS 2.3); (3) Rod Position Limits (TS 3.5.2); and (4) Power Imbalance Limits (TS 3.5.2).

These amendments also make administrative changes to clarify the TSs.

Date of issuance: April 25, 1986.
Effective date: April 25, 1986.
Amendments Nos.: 147, 147 and 144.
Facility Operating Licenses Nos. DPR–38, DPR–47 and DPR–55. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 28, 1986 (51 FR 7161).
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 25, 1986.
No significant hazards consideration comments received: No.
Local Public Document Room location: Oconee County Library, 501 West Southbroad Street, Walhalla, South Carolina 29691.

Indiana and Michigan Electric Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien County, Michigan

Date of application for amendments: October 19, 1984 as supplemented by letters dated May 31, 1985, October 18, 1985, and February 7, 1986.
Brief description of amendments: The amendments: (1) Allow locked, sealed or secured valves, flanges and deactivated automatic valves, including some inside containment, to be verified as closed during cold shutdown on Unit 1; (2) delete a specific reference to a requirement for a cycling test every 92 days on containment isolation valves on Unit 1 and substitute a reference to measuring isolation times on containment isolation valves in accordance with applicable ASME Section XI requirements on Unit 1; (3) remove the column "Testable During Plant Operation" from Table 3.6–1 for Unit 1; (4) allow valves SM–8 and SM–10 (upper containment Grab Samples) to be opened intermittently under administrative controls during power operation on Unit 2: (5) correct valve designations in Table 3.6–1 inadvertently overlooked in Amendment 47 on Unit 2; and (6) remove a footnote on Table 3.6–1 which is no longer applicable for Units 1 and 2.
Date of issuance: April 23, 1986.
Effective date: April 23, 1986.
Amendments Nos.: 95 and 81.
Facility Operating Licenses Nos. DPR–58 and DPR–74. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** December 31, 1984 (49 FR 50805).
The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 23, 1986.
No significant hazards consideration comments received: No.
Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Indiana and Michigan Electric Company, Docket Nos. 50–315 and 50–316, Donald C. Cook Nuclear Plant, Unit Nos. 1 and 2, Berrien Coiunty, Michigan

Date of application for amendments: January 21, 1986.
Brief description of amendments: The amendments revise the Technical Specifications as follows: In Tables 3.3–3 and 3.3–4, instrument numbers have been added for clarity, trip setpoints are now referenced to Table 3.3–6, and a statement added to indicate that the specification applies only during purge. In Tables 3.3–6 and 4.3–3, the instrument measurement ranges have been separated, the noble gas effluent monitors have been included by reference to the appropriate technical specification, the channel functional test and channel calibration have been better defined, and a statement added to indicate that the specifications apply only during purge. In Tables 3.3–12 and 3.3–13, instrument numbers have been added for clarity as has the statement that one monitor is required per train for the Service Water System effluent line, incorrect footnotes have been removed, and a note has been clarified that other requirements are for non-purging only. In Table 4.3–9, instrument numbers have been added. In Sections 6.12.1 and 6.12.2 for Unit 1, the wording is changed to be consistent with Unit 2 and the Standard Technical Specifications.
In Table 4.11–2, the term "charcoal filter" is being correctly identified and replaced with "iodine adsorbing media." In Table 3.12–1, the New Buffalo drinking water sample location is deleted. Editorial changes are made for Pages 3/4 12–3 and 6–21 and for several bases sections.
Date of issuance: April 22, 1986.
Effective date: April 22, 1986.
Amendments Nos.: 94 and 80
Facility Operating Licenses Nos. DPR–58 and DPR–74. Amendments revised the Technical Specifications.
Date of initial notice in **Federal Register:** February 26, 1986 (51 FR 6824).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 22, 1986.
No significant hazards consideration comments received: No.
Local Public Document Room location: Maude Reston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Iowa Electric Light and Power Company, Docket No. 50–331, Duane Arnold Energy Center, Linn County, Iowa

Date of application for amendment: November 9, 1984, as supplemented January 18, 1985 and January 6, 1986.
Brief description of amendment: The amendment revises the Technical Specifications to add action statements and surveillance requirements for the fire protection features of the Duane Arnold Energy Center.
Date of issuance: April 24, 1986.
Effective date: 30 days from the date of issuance.
Amemdment No.: 132.
Facility Operating License No. DPR–49. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** March 27, 1985 (50 FR 12146).
The subsequent submittal dated January 6, 1986 provided clarifying language for fire watch rquirements.
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 24, 1986.
No significant hazards consideration comments received: No.
Local Public Document Room location: Cedar Rapids Public Library, 500 First Street, SE., Cedar Rapids, Iowa 52401.

Kansas Gas and Electric Company, Kansas City Power and Light Company, Kansas Electric Power Cooperative, Inc., Docket No. 50–482, Wolf Creek Generating Station, Coffey County, Kansas

Date of application for amendment: January 20, 1986.
Brief description of amendment: The amendment modifies the Technical Specifications to implement the Relaxed Axial Offset Control mode of operation after fuel burnup of 800 megawatt days/metric ton of uranium is achieved.
Date of issuance: April 22, 1986.
Effective date: April 22, 1986.
Amemdment No.: 1.
Facility Operating License No. NPF–42. Amendment revised the Technical Specifications.
Date of initial notice in **Federal Register:** March 20, 1986 (51 FR 9728).
The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 22, 1986.
No significant hazards consideration comments received: No.
Local Public Document Room location: William Allen White Library, Emporia State University, Emporia, Kansas, and Washburn University School of Law, Topeka, Kansas.

Louisiana Power and Light Company, et al. Docket No. 50–382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of application for amendment: February 19 and 27, March 4 and 17, 1986.

Brief description of amendment: The amendment revises the Technical Specifications by delaying the performance of Type B and Type C local leak rate testing as rquired by Appendix J to 10 CFR Part 50 until the first refueling outage and by extending the first emergency diesel generator inspection interval until the first refueling outage and conducting subsequent inspections at intervals not to exceed 24 months.

Date of issuance: April 14, 1986.

Effective date: April 14, 1986.

Amemdment No.: 4.

Facility Operating License No. NPF–38 Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 10, 1986 (51 FR 8261).

The Commission's related evaluation is contained in a Safety Evaluation dated April 14, 1986.

No significant hazards consideration comments were received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, New Orleans, Louisiana 70122.

Mississippi Power & Light Company, Middle South Energy, Inc. South Mississippi Electric Power Association, Docket No. 50–416, Grand Gulf Nuclear Station, Unit 1, Claiborne County, Mississippi

Date of application for amendment: February 17, 1986.

Brief description of amendment: The amendment changes a Technical Specification to reduce the heat dissipation requirement for surveillance tests of the standby gas treatment system (SGTS) heaters. To demonstrate operability of the SGTS, the heaters would be required to dissipate 48 ±5.0 kilowatts instead of the presently required 50 ±5.0 kilowatts.

Date of issuance: April 23, 1986.

Effective date: April 23, 1986.

Amemdment No.: 11.

Facility Operating License No. NPF–29. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 7, 1986 (51 FR 8054).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 23, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Hinds Junior College, McLendon Library, Raymond, Mississippi 39145.

Northeast Nuclear Energy Company, et al., Docket No. 50–336, Millstone Nuclear Power Station Unit No. 2, Town of Waterford, Connecticut

Date of application for amendment: July 9, 1985.

Brief description of amendment: This amendment modifies the Technical Specifications by changing the definition of "Reportable Events" and by altering the reporting requirement as a result of changes to 10 CFR 50.72 and 10 CFR 50.73.

Date of issuance: April 9, 1986.

Effective date: April 9, 1986.

Amendment No.: 111.

Facility Operating License No. DPR–65. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** August 14, 1985 (51 FR 32787 at 32791).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 9, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut.

Omaha Public Power District, Docket No. 50–285, Fort Calhoun Station, Unit No. 1, Washington County, Nebraska

Date of application for amendment: October 31, 1985.

Brief description of amemdment: The amendment updated the snubber table listings to reflect the removal and addition of snubbers. The amendment also changed the surveillance requirements for the nuclear detector well cooling annulus exit air temperature detectors to make them consistent with the associated limiting condition for operation.

Date of issuance: April 24, 1986.

Effective date: Within 30 days of issuance.

Amendment No.: 96.

Facility Operating License No. DPR–40. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** December 4, 1985 (50 FR 49779 at 49788).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 24, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: W. Dale Clark Library, 215 South 15th Street, Omaha, Nebraska 68102.

Pacific Gas and Electric Company, Docket Nos. 50–275 and 50–323, Diablo Canyon Nuclear Power Plant, Unit Nos. 1 and 2, San Luis Obispo County, California

Date of application for amendments: August 27, 1985.

Brief description of amendments: Revise the Technical Specifications to change the Limiting Conditions for Operations and Bases related to battery sets and chargers.

Date of issuance: April 18, 1986.

Effective date: April 18, 1986.

Amendment Nos.: 6 and 4.

Facility Operating Licenses Nos. DPR–80 and DPR–82: Amendments revised the Technical Specifications.

Date of initial notice in **Federal Register:** October 23, 1985 (50 FR 43031).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 18, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: California Polytechnic State University Library, Documents and Maps Department, San Luis Obispo, California 93407.

Pennsylvania Power and Light Company, Docket No. 50–387, Susquehanna Steam Electric Station, Unit 1, Luzerne County, Pennsylvania

Date of application for amendment: July 22, 1983, as supplemented on July 26, August 2, 1983, as further supplemented with additional information on November 22, 1983, June 21 and November 13, 1984.

Brief description of amendment: This amendment changes the Unit 1 Technical Specifications to revise the Main Stream Line Radiation-High Setpoint from three times normal background to seven times normal background. The purpose of the Technical Specification change increasing the setpoint for Main Stream Line Radiation-High was to prevent unwarranted reactor scrams caused by N–16 spikes in the main stream line. The change was initiated by PP&L to correct operating problems experienced at Susquehanna Unit 1 with the condensate polishing system, which sometimes resulted in the releases of resin fines (impurities) to the reactor vessel. These impurities produced a transient increase in N–16 activity in the stream, which caused radiation levels to exceed the setpoint. As a result the Pennsylvania Power and Light Company requested a setpoint change to provide

additional margin against unnecessary main steam isolations. Subsequent to this request, the problem with the condensate polishing system was corrected by a design modification.

Date of issuance: April 15, 1986.

Effective date: April 15, 1986.

Amendment No.: 58.

Facility Operating License No. NPF-14: Amendment revised the Technical Specifications.

Dates of initial notice in **Federal Register:** August 31, 1983 (48 FR 39540).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 15, 1986.

No comments were received regarding the Commission's proposed no significant hazards consideration determination.

Local Public Document Room location: Osterhout Free Library, Reference Department, 71 South Franklin Street, Wilkes-Barre, Pennsylvania 18701.

Power Authority of the State of New York, Docket No. 50-286, Indian Point Unit No. 3, Westchester County, New York

Date of application for amendment: February 17, 1984, and October 4, 1984, as supplemented February 12, 1986.

Brief description of amendment: The amendment revises the Technical Specifications to incorporate requirements related to NUREG-0737 and Generic Letter 83-37 dated November 1, 1983.

Date of issuance: April 18, 1986.

Effective date: April 18, 1986.

Amendment No.: 65.

Facilities Operating License No. DPR-64: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 23, 1985, (50 FR 16010) and December 4, 1985 (50 FR 49791).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 18, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: White Plains Public Library, 100 Martine Avenue, White Plains, New York, 10610.

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendment: April 15, 1985, as supplemented September 6, 1985.

Brief description of amendment: This amendment revises the periodic testing requirements of the diesel generators.

Date of issuance: April 17, 1986.

Effective date: April 17, 1986.

Amendment No.: 81.

Facility Operating License No. DPR-54: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** November 20, 1985 (50 FR 47870).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 17, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: Sacramento City-County Library, 828 I Street, Sacramento, California 95814.

Southern California Edison Company, et al. Docket Nos. 50-361 and 50-362, San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, California

Date of application for amendment: January 24, 1986.

Brief description of amendment: The amendments revise Technical Specifications 4/4.9.8.1 and 4/4.9.8.2 to reduce the Mode 6 shutdown cooling system flow requirement from 4000 gpm to 2200 gpm.

Date of issuance: April 18, 1986.

Effective date: April 18, 1986, to be fully implemented within 30 days.

Amendment Nos.: 45 and 34.

Facility Operating License No. NPF-10 and NPF-15: Amendment revised the Technical Specifications.

Dates of initial notice in **Federal Register:** March 12, 1986 (51 FR 8602).

The Commission's related evaluation of the amendments is contained in a Safety Evaluation dated April 18, 1986.

No significant hazards consideration comments were received. No.

Local Public Document Room Location: General Library, University of California at Irvine, Irvine, California 92713.

Toledo Edison Company and the Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: September 1, 1983, as revised January 30, 1985.

Brief description of amendment: This amendment revises testing requirements for hydraulic snubbers and adds requirements for mechanical snubber operability and testing. The amendment also deletes a listing of safety-related snubbers.

Date of issuance: April 24, 1986.

Effective date: April 24, 1986.

Amendment No. 94.

Facility Operated License No. NPF-3. Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** April 23, 1985 (50 FR 16018).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 24, 1986.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Virginia Electric and Power Company, Dockets Nos. 50-280 and 50-281, Surry Power Station, Unit Nos. 1 and 2, Surry County, Virginia

Date of application for amendments: October 28, 1985, as supplemented April 1, 1986.

Brief description of amendments: These amendments increase the maximum allowable K-effective during refueling conditions from the current value of 0.90 to 0.95, and reduce the frequency of sampling for boron concentration from once every 8 hours, to once every 72 hours.

Date of issuance: April 22, 1986.

Effective date: April 22, 1986.

Amendment Nos. 106 and 106.

Facility Operated License Nos. DPR-32 and DPR-37: Amendment revised the Technical Specifications.

Date of initial notice in **Federal Register:** March 12, 1986 (51 FR 8603).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated April 24, 1986.

No significant hazards consideration comments received: No.

Local Public Room location: Swem Library, College of William and Mary, Williamsburg, Virginia 23185.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND FINAL DETERMINATION OF NO SIGNIFICANT HAZARDS CONSIDERATION AND OPPORTUNITY FOR HEARING (EXIGENT OR EMERGENCY CIRCUMSTANCES)

During the period since publication of the last bi-weekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment 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 amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing. For exigent circumstances, a press release seeking public comment as to the proposed no significant hazards consideration determination was used, and the State was consulted by telephone. In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant, a shorter public comment period (less than 30 days) has been offered and the State consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see: (1) The application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. 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 local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Licensing.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By June 6, 1986, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) The nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter, and the bases for each contention set forth with reasonable specificity. Contentions shall be limited to matters within the scope of the amendment under consideration. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at (800) 325–6000 (in Missouri (800) 342–6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to *(Project Director)*: petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this **Federal Register** notice. A copy of the petition should also be sent to the Executive Legal Director, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)–(v) and 2.714(d).

Alabama Power Company, Docket No. 50–364, Joseph M. Farley Nuclear Plant, Unit No. 2, Houston County, Alabama

Date of application for amendment: April 18, 1986.

Brief description of amendment: The amendment deletes the fuel rod weight limit in Technical Specification 5.3.1.

Date of issuance: April 22, 1986.

Effective date: April 22, 1986.

Amendment No. 56.

Facility Operating License No. NPF–8. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No.

The Commission's related evaluation of the amendment and final determination of no significant hazards consideration are contained in a Safety Evaluation dated April 22, 1986.

Attorney for Licensee: Ernest L. Blake, Jr., Esquire, 1800 M Street, NW., Washington, DC 20036.

Local Public Document Room location: George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama 36303.

Dated at Bethesda, Maryland, this 30th day of April 1986.

For The Nuclear Regulatory Commission.

Thomas M. Novak,

Acting Director, Division of PWR Licensing–A, Office of Nuclear Reactor Regulation.

[FR Doc. 86–10031 Filed 5–6–86; 8:45 am]

BILLING CODE 7590–01–M

Florida Power Corp. et al.; Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–72, issued to Florida Power Corporation (the licensee), for operation of the Crystal River Unit No. 3 Nuclear Generating Plant (CR–3) located in Citrus County, Florida.

The proposed amendment would permit plant operation with the reactor coolant pump supports redesigned in accordance with the recently noticed amendment to General Design Criterion 4 (GDC–4), 10 CFR Part 50, Appendix A (51 FR 12502), which will be effective May 12, 1986.

The proposed amendment would be in response to the licensee's application for amendment dated April 24, 1986, which requested that the previous exemption request dated February 1, 1985, as supplemented by several additional submittals, be considered an amendment request as required by the supplementary information in the notice for the amended GDC–4. It was further requested that noticing of this amendment be treated as an emergency since insufficient time exists for the Commission's usual 30-day notice without extending the current shutdown.

Before issuance of the proposed license amendment, the Commission will have made findings required by the Atomic Energy Act of 1954, as amended (the Act) and the Commission's regulations.

The Commission has made a proposed determination that the amendment request involves no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The amended GDC–4 states that "the dynamic effects associated with postulated pipe ruptures of primary coolant loop piping in pressurized water reactors may be excluded from the design basis when analyses demonstrate the probability of rupturing such piping is extremely low under design basis conditions." Based on the licensee's submittals and the Commission's review to date of these submittals, the advanced fracture mechanics techniques employed provide assurance that flaws in primary system piping will be detected before they reach a size that could lead to unstable crack growth. Therefore, the probability of large pipe breaks in the primary coolant system is sufficiently low such that dynamic effects associated with postulated pipe breaks need not be a design basis. In addition, based on the review to date, the revised design for the reactor coolant pump supports adequately considers all remaining design basis loads. The accident mitigation features (e.g., emergency core cooling system, containment) of the plant are not affected by the proposed amendment. Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant increase in the probability or consequences of an accident previously evaluated.

Based on the Commission's review to date, the revised design for the reactor coolant pump supports adequately considers all remaining design basis loads. The proposed change introduces no new mode of plant operation. Therefore, operation of the facility in accordance with the proposed amendment would not create the possibility of a new or different kind of accident from any accident previously evaluated.

Based on the Commission's review to date of the licensee's submittals, Code design criteria for the reactor coolant piping will not be exceeded. The revised design of the reactor coolant pump supports will result in improved support system reliability and may therefore improve overall safety margins for the plant. Therefore, operation of the facility in accordance with the proposed amendment would not involve a significant reduction in a margin of safety.

Therefore, based on these considerations and the three criteria given above, the Commission has made a proposed determination that the amendment request involves no significant hazards consideration.

The Commission has determined that failure to act in a timely way would result in extending the present unplanned outage. Therefore, the Commission has insufficient time to issue its usual 30-day notice of the proposed action for public comment.

If the proposed determination becomes final, an opportunity for a hearing will be published to the **Federal Register** at a later date and any hearing request will not delay the effective date of the amendment.

If the the Commission decides in its final determination that the amendment does involve a significant hazards consideration, a notice of opportunity for a prior hearing will be published in the **Federal Register** and, if a hearing is granted, it will be held before any amendment is issued.

The Commission is seeking public comments on this proposed determination of no significant hazards consideration. Comments on the proposed determination may be telephoned to John F. Stolz, Director, PWR Project Directorate No. 6, by collect call to 301–492–7288 or submitted in writing to the Rules and Records Branch, Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory the Commission, Washington, DC 20555. All comments received by May 19, 1986, will be considered in reaching a final determination. A copy of the application may be examined at the the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Crystal River Public Library,

668 NW. First Avenue, Crystal River, Florida 32629.

Dated at Bethesda, Maryland, this 2nd day of May 1986.

For the Nuclear Regulatory Commission.

John F. Stolz,

Director, PWR Project Directorate No. 6, Division of PWR Licensing–B.

[FR Doc. 86–10387 Filed 5–6–86; 8:45 am]

BILLING CODE 7590–01–M

PACIFIC NORTHWEST ELECTRIC POWER AND CONSERVATION PLANNING COUNCIL

Mainstem Passage Advisory Committee; Meeting

AGENCY: The Pacific Northwest Electric Power and Conservation Planning Council (Northwest Power Planning Council)

ACTION: Notice of meeting.

Status: Open.

SUMMARY: The Northwest Power Planning Council hereby announces a forthcoming meeting of its Mainstem Passage Advisory Committee of the Mainstem Passage Advisory Committee to be held pursuant to the Federal Advisory Committee Act, 5 U.S.C. Appendix I, 1–4. Activities will include:

- Bypass system development and schedules at mainstem Corps dams
- Consultation on Section 404 amendment applications
- FISHPASS model future sensitivity analysis
- Other
- Public comment.

DATE: May 16, 1986. 9:00 a.m.

ADDRESS: The meeting will be held in the Council's Meeting Room, 850 SW. Broadway, Suite 1100, Portland, Oregon.

FOR FURTHER INFORMATION CONTACT: Peter Paquet, 503–222–5161.

Edward Sheets,

Executive Director.

[FR Doc. 86–10149 Filed 5–6–86; 8:45 am]

BILLING CODE 0000–00–M

POSTAL RATE COMMISSION

[Order No. 690; Docket No. A86–17]

Wallpack Center, New Jersey 07881 (George W. Schaeffer, Jr., Petitioner); Notice and Order Accepting Appeal and Establishing Procedural Schedule

Issued: April 30, 1986.

Before Commissioners: Janet D. Steiger, Chairman; Henry R. Folsom, Vice-Chairman; John W. Crutcher; Bonnie Guiton, Patti Birge Tyson.

Docket number: A86–17.

Name of affected post office: Wallpack Center, New Jersey 07881.

Name(s) of petitioner(s): George W. Schaeffer, Jr.

Type of determination: Closing.

Date of filing of initial appeal papers: April 25, 1986.

Categories of issues apparently raised

1. Effect on postal services. [39 U.S.C. 404(b)(2)(C)]

Other legal issues may be disclosed by the record when it is filed; or conversely, the determination made by the Postal Service may be found to dispose of one or more of these issues.

In the interest of expedition within the 120-day decision schedule [39 U.S.C. 404(b)(5)] the Commission reserves the right to request of the Postal Service memoranda of law on any appropriate issue. If requested, such memoranda will be due 20 days from the issuance of the request; a copy shall be served on the Petitioner. In a brief or motion to dismiss or affirm, the Postal Service may incorporate by reference any such memorandum previously filed.

The Commission orders

(A) The record in this appeal shall be filed on or before May 12, 1986.

(B) The Secretary shall publish this Notice and Order and Procedural Schedules in the **Federal Register.**

By the Commission.

Charles L. Clapp,

Secretary.

Appendix

Wallpack Center, New Jersey 07881

April 25, 1986—Filing of Petition
April 30, 1986—Notice and Order of Filing of Appeal
May 20, 1986—Last day of filing of petitions to intervene [see 39 CFR 3001.111(b)].
May 30, 1986—Petitioner's Participant Statement or Initial Brief [see 39 CFR 3001.115 (a) and (b)].
June 19, 1986—Postal Service Answering Brief [see 39 CFR 3001.115(c)].
July 7, 1986—Petitioners' Reply Brief should petitioners choose to file one [see 39 CFR 3001.115(d)].
July 14, 1986—Deadline for motions by any party requesting oral argument. The Commission will schedule oral argument only when it is a necessary addition to the written filings [see 39 CFR 3001.116].
August 22, 1986—Expiration of 120-day decisional schedule [see 39 US.C. 404(b)(5)].

[FR Doc. 86–10191 Filed 5–6–86; 8:45 am]

BILLING CODE 7715–01–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Pasco County, FL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed highway project in Pasco County, Florida.

FOR FURTHER INFORMATION CONTACT: D.B. Luhrs, District Engineer, Federal Highway Administration, 227 N. Bronough Street, Room 2015, Tallahassee, Florida 32302, Telephone: (904) 681–7239.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Florida Department of Transportation will prepare an Environmental Impact Statement (EIS) for a proposal to improve US 19 (SR 55) in Pasco County, Florida. The proposed improvement would involve the upgrading of US 19 (SR 55) from a six-lane divided arterial to a six-lane expressway with frontage roads from north of Alternate US 19 to north of Fivay Road, a distance of 13.2 miles. Improvements to the corridor are considered necessary to provide for the existing and projected traffic demand. Also included in this proposal is the reconstruction of the existing Pithlachascotee River bridge and new interchanges at Darlington Road, Moog Road, C–54, Sunset Boulevard/Marine Parkway, Main Street, Ridge Road, Embassy Boulevard, Jasmine Boulevard, SR 52, and Fivay Road.

Alternatives under consideration include (1) taking no action; and (2) widening the existing highway to provide a six-lane expressway with frontage roads, plus interchanges at major crossroads and grade separations at minor crossroads. Design variations of the widened portion of the roadway and the frontage road locations are being studied with the "build" alternative.

Federal, State and local agencies have contributed early coordination comments through the State advance notification process. Additionally, a project planning team developing this project has contacted State, Federal, County and local agencies for information relative to land use planning, water quality analysis, and local planning needs. A public information workshop was held February 5, 1986, and a project

information center was opened to the public on February 19, 26, and March 5, 12, 19, 26, 1986. In addition, a public hearing will be held. Public notice will be given for the time and place of the public hearing. The draft EIS will be made available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning this proposed action and the EIS should be directed to FHWA at the address provided above.

Issued on: April 29, 1986.

P.E. Carpenter,

Division Administrator, Tallahassee, Florida.

[FR Doc. 86-10150 Filed 5-6-86; 8:45 am]

BILLING CODE 4910-22-M

National Highway Traffic Safety Administration

Public Proceeding Regarding Noncompliance Investigation; 1984-85 Gazelle Passenger Cars

Pursuant to section 152 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (Pub. L. 93-492, 88 Stat. 1470), 15 U.S.C. 1412, the Associate Administrator for Enforcement of the National Highway Traffic Safety Administration has made an initial determination that all Gazelle passenger cars manufactured by Vintage Reproductions, Inc. from October 1, 1983, to November 1, 1985, fail to comply with 49 CFR 571.208 Federal Motor Vehicle Safety Standard No. 208 *Occupant Crash Protection.* Specifically, the Associate Administrator has found that seat belt assemblies installed in the vehicles fail to incorporate emergency or automatic locking retractors.

A public proceeding will be held at 9:00 a.m. on Tuesday, June 3, 1986, in Room 2230 of the Department of Transportation Headquarters, 400 Seventh Street SW., Washington, DC, at which time Vintage Reproductions, Inc. will be afforded an opportunity to present data, views and arguments to establish that the alleged noncompliance in these vehicles does not exist or is not safety related.

Interested persons are invited to participate through written or oral presentations. Persons wishing to make oral presentations are requested to notify Ms. Gail Willis, Office of Vehicle Safety Compliance, National Highway Traffic Safety Administration, Room 6113, Nassif Building, 400 Seventh Street SW., Washington, DC 20590 (telephone 202-426-2832) before close of business on Tuesday, May 27, 1986.

The agency's investigative file in this matter is available for public inspection during working hours (7:45 a.m. to 4:15 p.m.) in the Technical Reference Library, Room 5109, 400 Seventh SW., Washington, DC 20590.

(Sec. 152, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1412); delegations of authority at 49 CFR 1.51 and 49 CFR 501.8)

Issued on May 2, 1986.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 86-10227 Filed 5-6-86; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP 86-06; Notice 1]

Motor Vehicle Safety Standards; Marina Mobili, Inc.; Receipt of Petition for Determination of Inconsequential Noncompliance

Marina Mobili, Inc. of Moonachie, New Jersey, has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1381 et seq.) for an apparent noncompliance with 49 CFR 571.115, Motor Vehicle Safety Standard No. 115, *Vehicle Identification Number*, on the basis that it is inconsequential as it relates to motor vehicle safety.

This Notice of receipt of a petition is published under Section 157 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1417) and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

Paragraphs S3 and S4.2 of Federal Motor Vehicle Standard No. 115, *Vehicle Identification Number*, give the definition of vehicle identification number and requirement of the standard, respectively. "A vehicle identification number is a series of Arabic numbers and Roman letters which is assigned to a motor vehicle for identification purposes." Standard No. 115 requires that the vehicle identification number consist of seventeen (17) characters.

The petitioner determined that 50 mopeds (motor driven cycles) manufactured in 1981 do not comply with Standard No. 115 requirements because of the use of an abbreviated vehicle identification number.

Marina Mobili stated that, due to the small number of Negrini mopeds involved, it believes the abbreviated vehicle identification number on these vehicles is an inconsequential noncompliance as it relates to motor vehicle safety.

Marina Mobili also argued that recalls would have detrimental effects because:

a. "The original certification label contains the month and year of manufacture as well as the vehicle identification number. The new labels would have to be sent out with the date of manufacture space blank, making it necessary for the customer to imprint this information onto the new certification label.

b. Most Department of Motor Vehicle Offices would become suspect of a moped having been stolen after the old certification plate had been removed and a new label installed.

c. Some of the Gazelle III mopeds affected by the noncompliance are being used in States that require moped registration. These units would already be registered under the original abbreviated vehicle identification number. Changing the vehicle identification number on these units would create a great deal of confusion at the various Department of Motor Vehicle Offices and in turn, create problems for the consumer."

Interested persons are invited to submit written data, views and arguments on the petition of Marina Mobili, Inc., described above. Comments should refer to the Docket Number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street SW., Washington, DC 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, the Notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: June 6, 1986.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8)

Issued on May 2, 1986.

Barry Felrice,

Associate Administrator for Rulemaking.

[FR Doc. 86-10190 Filed 5-6-86; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. IP85-15; Notice 2]

Vintage Reproductions, Inc. Denial of Inconsequential Noncompliance

This notice denies the petition by Vintage Reproductions, Inc., of North Miami, Florida, to be exempted from the notification and remedy requirments of the National Traffic and Motor vehicle Safety Act (15 U.S.C. 1381 *et seq.*) for an apparent noncompliance with 49 CFR 571.208, Motor Vehicle Safety Standard No. 208, *Occupant Restraint Systems.* The basis of the petition was that the noncompliance is inconsequential as it relates to motor vehicle safety.

Notice of the petition was published on November 4, 1985, and an opportunity afforded for comment (50 FR 45848).

Vintage is the manufacturer of a replicar known as the Gazelle, which it also supplies in kit form. In 1982, it was granted NHTSA Exemption 81-1 from complaince with paragraph S7.1 of Motor Vehicle Safety Standard No. 208, which requires passenger restraint systems to be equipped with automatic seat belt retractors. The exemption was for a period of one year, and expired on October 1, 1983. Vintage did not petition for a renewal of the exemption. In February 1985, during a visit to Vintage's production facilities, NHTSA inspectors discovered that the company had continued to produce Gazelles without automatic seat belt retractors after the expiration of its exemption, in apparent violation of the National Traffic and Motor Vehicle Safety Act (Agency File CIR 2399). Alleging that in spite of its continued efforts it has been unable to find a retractor of a size suitable for the configuration of the Gazelle, Vintage petitioned for a 3-year exemption from paragraph S7.1 on grounds that complaince would cause it substantial economic hardship. Notice appeared in the **Federal Register** on October 21, 1985 (50 FR 42634), with a due date for comments of November 20, 1985. Subsequently, Vintage filed the petition for inconsequentiality under consideration in this notice.

In support of its claim that the noncompliance is inconsequential as it relates to motor vehicle safety, Vintage says that were automatic seat belt retractors required to be installed in the front seat, "the goal of increased safety would be defeated, since the passenger would, in that case, be required to pull the seat belt around him or her before closing the door." Given the current production level of 4 vehicles per month, Vintage argues that the noncompliance will have no significant effect of vehicle-related deaths and injuries. The petitioner also believes that its vehicles are driven, on an average, only 2,000 miles per year, and thus are less likely to be involved in accidents. It is not aware of any "report instance of factory-completed Gazelle causing injury or fatality." Further because the belt must lie upon the seat and cannot be tucked away, the passenger is encouraged to use it. The noncomplaince covers 265 vehicles.

No comments were received on the petitioner.

By companion notices published today, the agency is denying Vintage's petition for a new exemption from Standard No. 208. It is also announcing its initial determination that all Gazelles manufactured on and after October 1, 1983, fail to conform to Standard No. 208 and scheduling a public proceeding at which Vintage will be afforded an opportunity to present data, views, and arguments with respect to the agency's determination. Restraints with automatic-locking retractors have been required in passenger cars since January 1, 1972, long before the design and manufacture of the first Gazelle. NHTSA does not regard this as an insignificant requirement of its occupant protection standard. While NHTSA may have at one time been willing to accommodate Vintage as a small manufacturer, it did not intend that such accommodation result in a permanent exemption from the requirement. Vintage's obligation was to afford the full protection specified by Standard No. 208 to passengers in Gazelles manufactured after the termination of the one-year exemption period that petitioner itself requested. NHTSA now intends to insure that this obligation is met.

Petitioner has failed to meet its burden of persuasion that the noncomplaince herein described with Standard No. 208 is inconsequential as it relates to motor vehicle safety, and its petition is denied.

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); (delegations of authority at 49 CFR 1.50).

Issued on: April 29, 1986.

Diane K. Steed,

Administrator.

[FR Doc. 86-10228 Filed 5-6-86; 8:45 am]

BILLING CODE 4910-59-M

[Docket No. EX-81-1; Notice 5]

Vintage Reproductions, Inc.; Denial of Petition for Renewal of Temporary Exemption From Federal Motor Vehicle Safety Standards Nos. 201, 206, 214; Denial of Petition for Temporary Exemption From Federal Motor Vehicle Safety Standard No. 208

This notice denies the petition by Vintage Reproductions, Inc., of North Miami, Florida, in conjunction with Classic Motor Carriages, Inc., for the renewal of a temporary exemption of its Gazelle model from certain Federal motor safety standards on grounds of substantial economic hardship. A 3-year exemption from these standards was previously granted on October 14, 1982 (47 FR 46047).

Notice of receipt of the petition was published on October 21, 1985, and an opportunity was afforded for comment (50 FR 42634).

Vintage Reproductions has assembled less than 100 Gazelles in the 12-month period prior to the filing of its petition. The Gazelle is an open passenger car intended to resemble a 1929 Mercedes SSK. The company estimated that it had a net income of over $388,000 in its fiscal year ending March 31, 1985. To require it to comply with the four safety standards for which it seeks exemption would, in its view, create substantial economic hardship. A summary of its request and explanations follows:

Standard No. 201—Petitioner is unable to provide the sun visor required by paragraph S3.4, presumably because its open vehicle lacks structure above the windshield frame. The Gazelle has a padded roll along the entire perimeter of the compartment and dash board, and in a collision, a belted passenger "will not * * * be pitched forward in an arch beyond the padded dash".

Standard No. 206—The present door on the Gazelle is too thin to permit compliance with S4.1.3 which requires "a locking mechanism with an operating means in the interior of the vehicle". Compliance would require reengineering "a door of much greater depth". The petitioner argues that there is a reduced likelihood of a passenger being ejected in a crash because the seats are placed to the rear of the doors.

Standard No. 214—To require conformance with the side door strength standard would result in a cost increase far in excess of the $300 per vehicle petitioner estimated in original 1981 petition but, in the petitioner's view, passengers are protected from side impacts because of the rearward location of the seat, and its placement

parallel with the all steel main frame which is 15 to 17 inches above ground level.

Standard No. 208—Petitioner was previously provided a 1-year exemption from three aspects of this standard, and its exemption expired on October 1, 1983. At that time, it had achieved compliance with two of the exempted requirements. However, it did not achieve compliance with S7.1 which requires installation of restraints incorporating emergency locking or automatic locking retractors, although it had stated that it would redesign the vehicle frame by October 1, 1983 so that such retractors could be used. From October 1, 1983 on, it manufactured Gazelles that do not meet S7.1 and it continued to certify, in the absence of an exemption, that the Gazelle is exempt from these requirements. These potential violations of 15 U.S.C. 1397(a)(1)(A) and (C) are under investigation by the agency (CIR 2399). Petitioner avers that the envelope size of current retractors makes installation difficult because of interference with the body and the proximity of the retractor to the side.

The exemptions would be for a period of 3 years. In support of its petition, Vintage argued that a grant would be in the public interest by providing continuing employment to its 300-person workforce, whose monthly payroll of $266,000 "provides a needed boost to the otherwise destitute local economy". Sales of the Gazelle in manufactured (as opposed to kit) form is represented as providing approximately 28% of the gross revenues of the company and a denial would have ramifications throughout the community. Petitioner argued that the exemptions would be consistent with the objectives of the National Traffic and Motor Vehicle Safety Act in that a limited number of exemptions for a small number of vehicles will have an inconsequential effect upon the traffic safety picture of the nation as a whole. Granting the exemption would be consistent with the intent of the hardship provision of 15 U.S.C. 1410.

Three comments were received on the petition, the Hialeah Miami Springs Northwest Dade Area Chamber of Commerce, and Jobs for Miami supported it. Ms. Patricia Hill opposed it, basically on the grounds that Vintage had not made a good faith effort to conform.

In response to a petition of this nature, the Administrator pursuant to 15 U.S.C. 1410 (a)(1)(A) may temporily exempt a manufacturer from one or more Federal motor vehicle safety standards upon a finding "that compliance would cause such manufacturer substantial economic hardship and that the manufacturer has, in good faith, attempted to comply with each standard from which it requests to be exempted". Pursuant to 1410(a)(2), a further finding must be made that the exemption "would be consistent with the public interest and the objectives of the [National Traffic and Motor Vehicle Safety] Act." In this instance, the agency has been unable to find either that to require compliance would cause Vintage substantial economic hardship or that the manufacturer has made a good faith effort to comply with the standards while its previous exemption was in effect. Lacking such findings, the agency cannot further find that exemptions would be in the public interest and consistent with objectives of the Act.

With the narrowed exception of Standard No. 208, petitioner's requests for an extension of its earlier exemptions are basically identical to its original request made in 1981. At the time of the earlier petition, Vintage had manufactured less than 100 Gazelles since commencing assembly of it in 1979, and the company had an unaudited net loss of $12,767 in the fiscal year prior to filing its petition. In its 1981 petition, the company said that to conform its product to Standard No. 214 would result in a cost increase of $300 per vehicle. Since the time of the 1981 petition, production of the Gazelle has increased to almost 100 units a year, and the company had an estimated net profit exceeding $388,000 in its latest fiscal year with a cumulative net profit of over $800,000 for the past four fiscal years. It now estimates that the cost to conform with Standard No. 214 is "far in excess" of $300. It appears to the agency that while the exemptions were in effect, funds became available that could have been devoted to compliance efforts, specifically that the Gazelle door and body could have been simultaneously reengineered to conform to Standards Nos. 206 and 214, and that petitioner's estimated cost increase of $300 or over per vehicle is relatively insignificant given the manufacturer's offering price of $25,000 for the Gazelle. But the company's petition was silent on its efforts, if any, to meet Standard No. 206 while the exemption was in effect, and with respect to No. 214, it merely said without elaboration that it had continued to examine the problem since 1982. There was no discussion of alternate means of compliance considered, and the reason for rejection of each. Thus, there was no basis upon which a finding could be made that Vintage had in good faith attempted to bring its vehicles into compliance during the pendency of the exemption, or that compliance would cause it substantial economic hardship.

Vintage was initially granted relief for one year from three requirements of Standard No. 208 upon its representation that it would bring its cars into compliance within one year by redesigning the frame. At the end of that year, Vintage had succeeded with respect to two of these requirements without apparent redesign in the frame, but it continued to produce Gazelles equipped with occupant restraints that did not meet the automatic-retractor requirement of Standard No. 208, and it did so until representatives of the agency visited its premises and discovered the continuing noncompliance. In mitigation, Vintage has argued that it has made a diligent search for appropriate retractors but has found none, but its petition contains nothing to substantiate the statement. During the pendency of the petition, NHTSA suggested to Vintage that retractors used in the Volkswagen Jetta and Datsun B–210 passenger cars might be appropriate. Vintage disagreed saying that installation of the Jetta retractor would result "in the automatic push button release facing inward, a situation which Vintage believes would be unsafe". To mount it with the button outward would require a modification "of the manner in which the bar that attaches the belt to the Gazelle frame is mounted," which Vintage avers, would "lessen the structural integrity of attachment". But Vintage did not explain why an inward facing button would be unsafe, or why the structural integrity would be be lessened. With respect to the Datsun B–210, NHTSA provided a picture showing a rear seat belt retractor located on the belt itself. Vintage found the Datsun belt unsuitable because among other things "the retractor used in the Datsun B–210 is a shoulder harness (three point), which cannot be installed in an open roadster like the Gazelle". This manifestly incorrect statement causes NHTSA to question whether Gazelle has ever made a good faith attempt to meet this standard. The Datsun system that NHTSA tried to call to Vintage's attention was a two-point system. Further, it is not true that a three point system cannot be installed in an open roadster though this system is not required by Standard No. 208. Therefore, NHTSA cannot find either that the company has made a good faith attempt to conform to Standard No. 208, or that compliance would cause it substantial economic hardship. In companion notices published today, the agency is denying Vintage's petition that its

noncompliance with Standard No. 208 subsequent to October 1, 1983, be deemed inconsequential as it relates to motor vehicle safety. It is also announcing its initial determination that Gazelles manufactured since that date fail to conform to Standard No. 208 and scheduling a public proceeding on the matter.

In summary, petitioner has failed in its burden of persuasion that compliance with Standard No. 206, and 214 would cause it substantial economic hardship, or that it has made a good faith effort to meet these standards. Because the agency is unable to make the findings required by 15 U.S.C. 1410(a)(1)(A), it is further unable to find that an exemption would be in the public interest and consistent with the objective of the Act. In consideration of the foregoing, the agency hereby denies the petition by Vintage Reproductions for temporary exemption from the Federal Motor Vehicle Safety Standards Nos. 206, 208, and 214. The agency makes no finding with respect to the manufacturer's petition for exemption from Standard No. 201. Because the petition was timely filed, purusant to 49 CFR 555.8(e), this means that the previous exemption from Standard No. 201 does not terminate until the agency grants or denies Vintage's petition for renewal of it.

(Sec. 3, Pub. L. 92-548, 86 Stat. 1159 (15 U.S.C. 1410); delegation of authority at 49 CFR 1.50)

Issued on April 29, 1986.

Diane K. Steed,

Administrator.

[FR Doc. 86-10229 Filed 5-6-86; 8:45 am]

BILLING CODE 4910-59-M

Saint Lawrence Seaway Development Corporation

Advisory Board; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Advisory Board of the Saint Lawrence Seaway Development Corporation, to be held at 3:00 p.m., June 18, 1986, at the Corporation's Administration Headquarters, Room 5424, 400 Seventh Street SW., Washington, DC. The agenda for this meeting will be as follows: Opening Remarks, Consideration of Minutes of Past Meeting; Review of Programs; Business; Closing Remarks.

Attendance at meeting is open to the interested public but limited to the space available. With the approval of the Administrator, members of the public may present oral statements at the meeting. Persons wishing further information should contact not later then June 12, 1986, Joan C. Hall, Advisory Board Liaison, Saint Lawrence Seaway Development Corporation, 400 Seventh Street SW., Washington, DC 20590; 202/426-3574.

Any member of the public may present a written statement to the Advisory Board at any time.

Issued at Washington, DC, on May 5, 1986.

Joan C. Hall,

Advisory Board Liaison.

[FR Doc. 86-10147 Filed 5-6-86; 8:45 am]

BILLING CODE 4910-61-M

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 86-95]

Reimbursable Service—Excess Cost of Preclearance Operation

February 2, 1986.

Notice is hereby given that pursuant to § 24.18(d), Customs Regulations (19 CFR 24.18(d)), the biweekly reimbursable excess costs for each preclearance installation are determined to be as set forth below and will be effective with the pay period beginning April 27, 1986.

Installation	Biweekly excess cost
Montreal, Canada	$27,072
Toronto, Canada	38,400
Kindley Field, Bermuda	19,432
Nassau, Bahama Islands	32,988
Vancouver, Canada	16,990
Winnipeg, Canada	4,104
Freeport, Bahama Islands	16,607
Calgary, Canada	10,121
Edmonton, Canada	6,908

D. Lynn Gordon,

Acting Comptroller.

[FR Doc. 86-10194 Filed 5-6-86; 8:45 am]

BILLING CODE 4820-02-M

Internal Revenue Service

[Delegation Order No. 67 (Rev. 16)]

Delegation of Authority

AGENCY: Internal Revenue Service, Treasury.

ACTION: Delegation of authority.

SUMMARY: The specific authorization to sign the name of, or on behalf of, James I. Owens, Acting Commissioner of Internal Revenue. The text of the Delegation Order appears below.

EFFECTIVE DATE: May 1, 1986.

FOR FURTHER INFORMATION CONTACT: Melva E. Scruggs, PM:S:FM:I., 1111 Constitution Avenue NW., Room 3526, Washington, DC 20224, (202) 566-4273 (Not a Toll-Free telephone number).

Martha M. Seeman,

Chief, Information and Productivity Improvement Branch.

Order No. 67 (Rev. 16)
Effective date: May 1, 1986
Signing the Commissioner's Name or on his Behalf

Effective 12:01 A.M. May 1, 1986, all outstanding authorizations to sign the name of, or on behalf of, Roscoe L. Egger, Jr., Commissioner of Internal Revenue, are hereby amended to authorize the signing of the name of, or on behalf of, James I. Owens, Acting Commissioner of Internal Revenue.

Delegation Order No. 67 (Rev. 15) effective March 14, 1981 is superseded.

Dated: May 1, 1986.

Approved:

James I. Owens,

Acting Commissioner.

[FR Doc. 86-10247 Filed 5-6-86; 8:45 am]

BILLING CODE 4830-01-M

VETERANS ADMINISTRATION

Station Committee on Educational Allowances; Meeting

Notice is hereby given pursuant to Section V, Review Procedure and Hearing Rules, Station Committee on Educational Allowances that on Friday, May 23, 1986 at 2:00 p.m. the Salt Lake City Regional Office Station Committee on Educational Allowances shall at Room 5102, 125 South State Street, Salt Lake City, Utah 84147 conduct a hearing to determine whether Veterans Administration benefits to all eligible persons enrolled in New Directions, Inc., P.O. Box 8643, Salt Lake City, Utah, 84105, should be discontinued as provided in 38 CFR 21.4134, because of a requirement of law is not being met or a provision of the law has been violated. All interested persons shall be permitted to attend, appear before, or file statements with the committee at that time and place.

Dated: April 29, 1986.

Douglas Wadsworth,

Director, VA Regional Office.

[FR Doc. 86-10148 Filed 5-6-86; 8:45 am]

BILLING CODE 8320-01-M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 88
Wednesday, May 7, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

COMMISSION ON CIVIL RIGHTS

PLACE: 1121 Vermont Avenue, NW., Washington, DC, Room 512.

DATE AND TIME: Friday May 9, 1986, 9:00 a.m.–5:00 p.m.

STATUS OF MEETING: Open to the public.

MATTERS TO BE CONSIDERED:

I. Approval of Agenda
II. Approval of Minutes of Last Meeting
III. Staff Director's Report for April
  A. Status of Funds
  B. Personnel Report
  C. Office Directors' Reports
IV. Briefing on Activities of Lyndon LaRouche Organizations Affecting the Civil Rights of Racial and Religious Minorities
V. Discussion of Clearinghouse Report, "Recent Activity Against Citizens and Residents of Asian Descent"
VI. Civil Rights Developments in the Southern Region

FOR FURTHER INFORMATION PLEASE CONTACT: Barbara Brooks, Press and Communications Division (202) 376–8314.

Donald M. Stocks,
Assistant Solicitor.

[FR Doc. 86-10346 Filed 5-5-86; 12:38 pm]

BILLING CODE 6335-01-M

2

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 2, 1986.

TIME AND DATE: 10:00 a.m., Thursday, May 1, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, DC.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

MATTERS TO BE CONSIDERED: In addition to the previously announced item, the Commissioners also discussed the following.

2. Westmoreland Coal Company, Docket No. WEVA 82-152-R, 82-369.

It was determined by unanimous vote of Commissioners that this item be included in the meeting and that 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. 86-10301 Filed 5-5-86; 11:23 am]

BILLING CODE 6735-01-M

3

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 2, 1986.

TIME AND DATE: 10:00 a.m., Thursday, May 8, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Jones & Laughlin Steel Co., Vesta Mining Company, Docket No. PENN 81-96-R. (Issues include consideration of the pre-shift examination requirements of 30 CFR 75.303 as applied to coal-carrying beltlines and the entries in which they are located.)

It was determined by a unanimous vote of Commissioners that a meeting be held on this item and that no earlier announcement of the meeting was possible.

Any person intending to attend this meeting who requires special assessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR 2706.150(a) and § 2706.160(e).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5629.

Jean H. Ellen,
Agenda Clerk.

[FR Doc. 86-10302 Filed 5-5-86; 11:24 am]

BILLING CODE 6735-01-M

4

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 2, 1986.

TIME AND DATE: 10:00 a.m., Thursday, May 15, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Secretary of Labor on behalf of Donald R. Hale v. 4–A Coal Co., Inc., Docket No. VA 85-29-D. (Issues include whether the administrative law judge properly dismissed the Secretary's discrimination complaint.)

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR 2706.150(a)(3) and § 2706.160(e).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5629.

Jean H. Ellen,
Agenda Clerk.

[FR Doc. 86-10303 Filed 5-5-86; 11:25 am]

BILLING CODE 6735-01-M

5

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 2, 1986.

TIME AND DATE: 10:00 a.m., Thursday, May 22, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Consolidation Coal Co., Docket No. WEVA 82-209-R. (Issues include whether the administrative law judge properly concluded that a violation of 30 CFR 70.100(a), a mandatory health standard dealing with the control of respirable dust in underground coal mines, was "significant & substantial".)

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 20 CFR 2706.150(a)(3) and § 2706.160(e).

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen. (202) 653–5629.

Jean H. Ellen,

Agenda Clerk.

[FR Doc. 86–10304 Filed 5–5–86; 11:26 am]

BILLING CODE 6735–01–M

6

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

May 2, 1986.

TIME AND DATE: 10:00 a.m., Thursday, May 29, 1986.

PLACE: Room 600, 1730 K St., NW., Washington, DC.

STATUS: Closed (Pursuant to 5 U.S.C. 552b(c)(10)).

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. Secretary of Labor and behalf of Michael Hogan and Robert Ventura v. Emerald Mines Corp., Docket No. PENN 83–141–D. (Issues include whether the administrative law judge properly dismissed the Secretary's discrimination complaint.)

CONTACT PERSON FOR MORE INFORMATION: Jean Ellen (202) 653–5629.

Jean H. Ellen,

Agenda Clerk,

[FR Doc. 86–10305 Filed 5–5–86 11:27 am]

BILLING CODE 6735–01–M

7

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS

TIME AND DATE: 11:00 a.m., Monday, May 12, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Street, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeing, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: May 2, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–10224 Filed 5–2–86 8:45 am]

BILLING CODE 6210–01–M

8

INTERNATIONAL TRADE COMMISSION

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 11:00 a.m., Tuesday, May 13, 1986.

CHANGES IN THE MEETING: Item 5 is corrected to read as follows:

5. Investigations 701–TA–273 [Preliminary] and 731–TA–320/325 [Preliminary]—(Certain unfinished mirrors from Turkey, Belgium, Federal Republic of Germany, Italy, Japan, Portugal, and the United Kingdom)—briefing and vote.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, 202/523–0161.

Kenneth R. Mason,

Secretary.

May 2, 1986.

[FR Doc. 86–10231 Filed 5–2–86; 4:15 pm]

BILLING CODE 7020–02–M

9

INTERNATIONAL TRADE COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 51 FR 15719.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10:00 a.m., Tuesday, April 29, 1986.

CHANGES IN THE MEETING: Change of location for Commission meeting from Room 117 to Room 331, 701 E. Street, NW., Washington, DC.

In conformity with 19 CFR 201.37(b), Commissioners Stern, Liebeler, Eckes, Lodwick, Rohr and Brunsdale determined that Commission business required the change in location of the meeting, affirmed that no earlier announcement of the change to the agenda was possible, and directed the issuance of this notice at the earliest practicable time. There are no other changes to the agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, 202/523–0161.

Kenneth Mason,

Secretary.

April 29, 1986.

[FR Doc. 86–10232 Filed 5–2–86; 4:15 pm]

BILLING CODE 7020–02–M

10

INTERNATIONAL TRADE COMMISSION

TIME AND DATE: Tuesday, May 13, 1986 at 11:00 a.m.

PLACE: Room 117, 701 E Street, NW., Washington, DC 20436.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda.
2. Minutes.
3. Ratification List.
4. Petitions and Complaints.
5. Investigations 701–TA–320/325 [Preliminary]—(Certain unfinished mirrors from Turkey, Belgium, Federal Republic of Germany, Italy, Japan, Portugal, and the United Kingdom)—briefing and vote.
6. Any items left over from previous agenda.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary, (202) 523–0161.

Kenneth R. Mason,

Secretary.

April 29, 1986.

[FR Doc. 86–10233 Filed 5–2–86; 4:15 pm]

BILLING CODE 7020–02–M

11

NATIONAL CREDIT UNION ADMINISTRATION

Notice of Previously Held Emergency Meeting

TIME AND DATE: 4:25 p.m., Friday, May 2, 1986.

PLACE: 1776 G Street, NW., Washington, DC, 6th Floor

STATUS: Closed.

MATTER CONSIDERED:

1. Conservatorship.

The Board unanimously voted that the Agency business required that a meeting be held with less than the usual seven days advance notice.

The Board unanimously voted to close the meeting under exemptions (8) and (9)(A)(ii). The General Counsel certified that the meeting could be closed under those exemptions.

FOR MORE INFORMATION CONTACT: Rosemary Brady, Secretary of the Board, Telephone (202) 357–1100.

Rosemary Brady,

Secretary of the Board.

[FR Doc. 86–10362 Filed 5–5–86; 3:39 pm]

BILLING CODE 7535–01–M

12

NATIONAL SCIENCE BOARD

DATE AND TIME: May 16, 1986.

8:30–8:45 a.m.—Closed Session
8:45–10:45 a.m.—Open Session

PLACE: National Science Foundation, Washington, DC.

STATUS: Most of this meeting will be open to the public. Part of this meeting will be closed to the public.

MATTERS TO BE CONSIDERED MAY 16:

Closed Session (8:30–8:45 a.m.)

1. Minutes—March 1986 Meeting
2. Election of Officers
3. NSB and NSF Staff Nominees
4. Grants, Contracts, and Programs—Action Items

Open Session (8:45–10:45 a.m.)

5. Chairman's Report
6. Minutes—March 1986 Meeting
7. Meeting Schedule for Calendar Year 1987
8. Director's Report
9. Annual Report of the Executive Committee
10. Report of the Research Excellence and Breadth of Research Participation Committee
11. NSB Issues
12. Status Report on Academic Scientific Instrumentation
13. Other Business

Thomas Ubois,

Executive Officer.

[FR Doc. 86–10306 Filed 5–5–86; 11:28: am]

BILLING CODE 7555-01-M

13

NUCLEAR REGULATORY COMMISSION

DATE: Weeks of May 5, 12, 19, and 26, 1986.

PLACE: Commissioner's Conference Room, 1717 H Street, NW., Washington, DC.

STATUS: Open and Closed.

MATTERS TO BE CONSIDERED:

Week of May 5

Wednesday, May 7

9:30 a.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Thursday, May 8

2:00 p.m.
Meeting with Advisory Committee on Reactor Safeguards on Safety Goal Policy (Public Meeting)
3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of May 12—Tentative

Thursday, May 15

9:30 a.m.
Briefing by AIF on State of the Industry (Public Meeting)
3:30 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Friday, May 16

10:00 a.m.
Discusion/Possible Vote on Full Power Operating License for Catawba-2 (Public Meeting)

Week of May 19—Tentative

Tuesday, May 20

2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Wednesday, May 21

10:00 a.m.
Briefing by Staff on Status of TVA (Open/Portion Closed—Ex. 5 & 7)
2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Thursday, May 22

10:00 a.m.
Briefing by Davis-Besse Ad Hoc Review Group (Open/Portion May be Closed)
2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

Week of May 26—Tentative

Wednesday, May 28

2:00 p.m.
Discussion of Management-Organization and Internal Personnel Matters (Closed—Ex. 2 & 6)

Thursday, May 29

10:00 a.m.
Briefing on Pending Enforcement Action (Closed—Ex. 5 & 7)
2:00 p.m.
Affirmation Meeting (Public Meeting) (if needed)

TO VERIFY THE STATUS OF MEETINGS CALL (RECORDING): (202) 634–1498.

CONTACT PERSON FOR MORE INFORMATION: Robert McOsker (202) 634–1410.

Robert B. McOsker,

Office of the Secretary.

May 1, 1986.

[FR Doc. 86–10230 Filed 5–7–86; 8:45 am]

BILLING CODE 7590-01-M

federal register

Wednesday
May 7, 1986

Part II

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Research; Actions Under Guidelines

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Research; Actions Under Guidelines

AGENCY: National Institutes of Health, PHS, DHHS.

ACTION: Notice of Actions under NIH Guidelines for Research Involving Recombinant DNA Molecules.

SUMMARY: This notice sets forth four actions to be taken by the Director, National Institutes of Health (NIH), under the November 23, 1984, NIH Guidelines for Research Involving Recombinant DNA Molecules (49 FR 46266).

EFFECTIVE DATE: May 7, 1986.

FOR FURTHER INFORMATION CONTACT: Additional information can be obtained from Dr. William J. Gartland, Office of Recombinant DNA Activities, Building 31, Room 3B10, National Institutes of Health, Bethesda, Maryland 20892, (301) 496–6051.

SUPPLEMENTARY INFORMATION: Today four actions are being promulgated under the NIH Guidelines for Research Involving Recombinant DNA Molecules. These four proposed actions were published for comment in the **Federal Register** of December 20, 1985 (50 FR 52176), and reviewed and recommended for approval by the NIH Recombinant DNA Advisory Committee (RAC) at its meeting on January 27, 1986.

In accordance with section IV–C–1–b of the NIH Guidelines, these actions have been found to comply with the NIH Guidelines and to present no significant risk to health or the environment.

Part I of this announcement provides background information on the actions. Part II provides a summary of the actions of the Director, NIH.

Following this announcement, there appears in a separate section of the **Federal Register** the revised NIH Guidelines for Research Involving Recombinant DNA Molecules. These revised Guidelines differ from the previous version of the Guidelines promulgated on November 23, 1984 (49 FR 46266), by incorporating within them: The changes in the Guidelines which were recommended at the RAC meeting of the October 29, 1984, and promulgated on March 11, 1985 (50 FR 9760); a change recommended at the RAC meeting of June 1, 1984, and promulgated on November 13, 1985 (50 FR 46834); the changes recommended at the RAC meeting of September 23, 1985, and promulgated on November 22, 1985, (50 FR 48344); and the changes in the Guidelines which are promulgated in this announcement. Minor editorial modifications have also been introduced into the document.

I. Decisions on Actions Under NIH Guidelines

A. Proposal to Modify the NIH Guidelines to Refer Specifically to RNA

The Recombinant DNA Advisory Committee (RAC) has discussed whether the NIH Guidelines should explicitly state that RNA is covered by the NIH Guidelines, particularly in the case of human gene therapy protocols. A RAC working group composed a proposal to modify section III–A–4, section III–B–3, and section III–B–4–a of the NIH Guidelines to refer specifically to RNA. That proposal would modify these sections in the following manner:

(1) Section III–A–4 of section III–A, *Experiments that Require RAC Review and NIH and IBC Approval Before Initiation,* currently reads as follows:

"III–A–4. Deliberate transfer of recombinant DNA or DNA derived from recombinant DNA into human subjects (21). The requirement for RAC review should not be considered to preempt any other required review of experiments with human subjects. Institutional Review Board (IRB) review of the proposal should be completed before submission to NIH."

Under the working group proposal, section III–A–4 would be modified to read as follows:

"III–A–4. Deliberate transfer of recombinant DNA or DNA or RNA derived from recombinant DNA into human subjects (21). The requirement for RAC review should not be considered to preempt any other required review of experiments with human subjects. Institutional Review Board (IRB) review of the proposal should be completed before submission to NIH."

(2) Section III–B–3 of section III–B, *Experiments that Require IBC Approval Before Initiation,* currently reads as follows:

"III–B–3. *Experiments Involving the Use of Infectious Animal or Plant Viruses or Defective Animal or Plant Viruses in the Presence of Helper Virus in Tissue Culture Systems.*

"**Caution:** Special care should be used in the evaluation of containment levels for experiments which are likely to either enhance the pathogencity (e.g., insertion of a host oncogence) or to extend the host range (e.g., introduction of novel control elements) of viral vectors under conditions which permit a productive infection. In such cases, serious consideration should be given to raising the physical containment by at least one level.

Note. —Recombinant DNA molecules which contain less than two-thirds of the genome of any eukaryotic virus (all virus from a single Family (17) being considered identifical (19)) may be considered defective and can be used in the absence of helper under the conditions specified in section III–C."

Under the working group proposal, section III–B–3 would be modified to read as follows:

"III–B–3. *Experiments Involving the Use of Infectious Animal or Plant DNA or RNA Viruses or Defective Animal or Plant DNA or RNA Viruses in the Presence of Helper Virus in Tissue Culture Systems.*

Caution: Special care should be used in the evaluation of containment levels for experiments which are likely to either enhance the pathogenicity (e.g., insertion of a host oncogence) or to extend the host range (e.g., introduction of novel control elements) of viral vectors under conditions which permit a productive infection. In such cases, serious consideration should be given to raising the physical containment by at least one level.

"**Note.** —Recombinant DNA molecules or RNA molecules derived there-from which contain less than two-thirds of the genome of any eukaryotic virus (all virus from a single Family (17) being considered idenitical (19)) may be considered defective and can be used in the absence of helper under the conditions specified in section III–C.

(3) Section III–B–4–a of section III–B, *Experiments that Require IBC Approval Before Initiation,* currently reads as follows:

"III–B–4–a. DNA from any source except for greater than two-thirds of a eukaryotic viral genome may be transferred to any non-human vertebrate organism and propagated under conditions of physical containment comparable to BLI and appropriate to the organism under study (2). It is important that the investigator demonstrate that the fraction of the viral genome being utilized does not lead to productive infection. A USDA permit is required for work with Class 5 agents (18, 20)."

Under the working group proposal, section III–B–4–a would be modifed to read as follows:

"III–B–4–a. Recombinant DNA-or RNA molecules derived therefrom—from any source except for greater than two-thirds of a eukaryotic viral genome may be tranferred to any non-human vertebrate organism and propagated under conditions of physical containment comparable to BL1 and appropriate to the organism under study (2). It is important that the investigator demonstrate that the fraction of the viral genome being utilized does not lead to productive infection. A USDA permit is required for work with Class 5 agents (18, 20)."

This proposal was published for comment in the **Federal Register** of December 20, 1985 (50 FR 52176). No comments on the proposal were received.

The RAC considered this proposal at the January 27, 1986, meeting. By a vote of fifteen in favor, none opposed, and one abstention, the RAC recommended approval of this proposal. I accept this recommendation and the appropriate sections of the Guidelines have been modified.

B. Proposal to Modify Appendix C of the NIH Guidelines

Section III–D–5 of the NIH Guidelines states that certain classes of recombinant DNA molecules are exempt ". . . if the Director, NIH, with advice of the RAC, after appropriate notice and opportunity for public comment, finds that they do not present a significant risk to health or the environment. . . ." These classes of experiments are listed in Appendix C.

A RAC Working Group on Gram Positive Bacteria suggested that a new section be added to Appendix C. That new section would be entitled Appendix C–V, *Extrachromosomal Elements of Gram Positive Organisms.* The current Appendix C–V, *Footnotes and References of Appendix C,* would be renumbered Appendix C–VI under the proposal. The Working Group on Gram Positive Bacteria suggested the proposed Appendix C–V read as follows:

"Recombinant DNA molecules derived entirely from extrachromosomal elements of the organisms listed below (including shuttle vectors constructed from vectors described in Appendix C), propagated and maintained in organisms listed below are exempt from these Guidelines.

Bacillus subtilis
Bacillus pumilus
Bacillus licheniformis
Bacillus thuringiensis
Bacillus cereus
Bacillus amyloliquefaciens
Bacillus brevis
Bacillus natto
Bacillus niger
Bacillus aterrimus
Bacillus amylosachariticus
Bacillus anthracis
Bacillus globigii
Bacillus megaterium
Staphylococcus aureus
Staphylococcus epidermidis
Staphylococcus carnosus
Clostridium acetobutylicum
Pediococcus damnosus
Pediococcus pentosaceus
Pediococcus acidilactici
Listeria grayi
Listeria murrayi
Listeria monocytogenes
Streptococcus pyogenes
Streptococcus agalactiae
Streptococcus sanguis
Streptococcus salivarious
Streptococcus cremoris
Streptococcus pneumoniae
Streptococcus avium
Streptococcus faecalis
Streptococcus anginosus
Streptococcus sobrinus
Streptococcus lactis
Streptococcus mutans
Streptococcus equisimilis
Streptococcus thermophylus
Streptococcus milleri
Streptococcus durans
Streptococcus mitior
Streptococcus ferus

"Exceptions.

"Experiments described in section III–A which require specific RAC review and NIH approval before initiation of the experiment.

"Large-scale experiments (e.g., more than 10 liters of culture) require prior IBC review and approval (see section III–B–5).

"Experiments involving the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates (see Appendix F)."

The Working Group on Gram Positive Bacteria also suggested the first paragraph of Appendix C–IV, *Experiements Involving Bacillus subtilis Host-Vector Systems,* be modified. That paragraph currently reads as follows:

"Any asporogenic *Bacillus subtilis* strain which does not revert to a sporeformer with a frequency greater than 10^{-7} can be used for cloning DNA with the exception of those experiments listed below. Indigenous *Bacillus* plasmids and phages whose host-range does not include *Bacillus cereus* or *Bacillus anthracis* may be used as vectors."

The second sentence of that paragraph would be deleted and the paragraph would read as follows:

"Any asporogenic *Bacillus subtilis* strain which does not revert to a sporeformer with a frequency greater than 10^{-7} can be used for cloning DNA with the exception of those experiments listed below."

This proposal was published for public comment in the December 20, 1985, **Federal Register** (50 FR 52176). No comments on the proposal were received.

The RAC considered this proposal at the January 27, 1986, meeting. During the discussion it was noted that *Lactobacillus casei* had inadvertently been left off the list. By a vote of seventeen in favor, none opposed, and no abstentions, RAC recommended approval of the proposal, including the addition of *L. casei* to the list.

I accept this recommendation and a new Appendix C–V has been added to Appendix C. Current Appendix C–V will become Appendix C–VI.

C. Proposed Revision of Appendix C–I

Dr. Robert Simpson, Chair of the NIH Institutional Biosafety Committee, requested a modification of Appendix C–I, *Exemptions Under Section III–D–5.* In proposing this modification, Dr. Simpson wrote:

"A great number of experiments are currently carried out which involve the use of 'shuttle' vectors containing small amounts of eukaryotic viral DNA together with bacterial plasmid sequences; such recombinant DNA constructions can replicate in either bacteria or tissue culture cells. These vectors are used for cloning and for expression studies. Examples of the types of viral sequences utilized are the SV40 origin of replication, splice junction, polyadenylation signal, herpes thymidylate kinase gene, etc. Such recombinant molecules are not capable of generating infectious virus.

"Currently the Guidelines require registration of any experiment in which any eukaryotic viral sequences are propagated in tissue culture cells. [The NIH IBC feels] this is not necessary and would like to propose . . . revision to Appendix C–I. . . ."

Appendix C–I currently reads:

"Appendix C–I. *Recombinant DNAs in Tissue Culture.* Recombinant DNA molecules derived entirely from non-viral components (that is, no component is derived from a eukaryotic virus) that are propagated and maintained in cells in tissue culture are exempt from these Guidelines with the exceptions listed below.

"Exceptions.

"Experiments described in Section III–A which require specific RAC review and NIH approval before initiation of the experiment.

"Experiments involving DNA from Class 3, 4 or 5 organism (1) or cells known to be infected with these agents.

"Experiments involving the deliberate introduction of genes coding for the biosynthesis of molecules toxic for vertebrates (see Appendix F)."

Dr. Simpson suggested Appendix C–I be modified to read as follows:

"Appendix C–I *Recombinant DNAs in Tissue Culture.* Recombinant DNA molecules that are propagated and maintained in cells in tissue culture are exempt from these Guidelines with the exceptions listed below.

"Exceptions.

"Experiments described in section III–A which require specific RAC review and NIH approval before initiation of the experiment.

"Experiments involving DNA from Class 3, 4, or 5 organisms (1) or cells known to be infected with these agents.

"Experiments involving the deliberate introduction of genes coding for the biosynthesis of molecules toxic for vertebrates (see Appendix F).

"Experiments involving DNA molecules which contain more than two-thirds of a primate retroviral genome."

This proposal was published for public comment in the **Federal Register** of December 20, 1985 (50 FR 52176). No comments were received on the proposal.

RAC reviewed this proposal at the January 27, 1986, meeting. Following discussion of the proposal, RAC recommended by a vote of seventeen in

favor, none opposed, and no abstentions that Appendix C–I be modified to read as follows:

"Appendix C–I. *Recombinant DNAs in Tissue Culture.* Recombinant DNA molecules containing less than one-half of a eukaryotic viral genome (all viruses from a single Family (4) being considered identical (5)) that are propagated and maintained in cells in tissue culture are exempt from these Guidelines with the exceptions listed below.

"Exceptions.

"Experiments described in section III–A which require specific RAC review and NIH approval before initiation of the experiment.

"Experiments involving DNA from Class 3, 4 or 5 organisms (1) or cells known to be infected with these agents.

"Experiments involving the deliberate introduction of genes coding for the biosynthesis of molecules toxic for vertebrates (see Appendix F)."

In addition, two new footnotes would be added to new Appendix C–VI, *Footnotes and References of Appendix C,* as follows:

"4. As classified in the Third Report of the International Committee on Taxonomy of Viruses: Classification and Nomenclature of Viruses, R. E. F. Matthews, Ed. Intervirology 12 (129–296) 1979.

"5. i.e., the total of all genomes within a Family shall not exceed one-half of the genome."

Later in the RAC meeting, it was questioned whether Appendix C–I would read more clearly and be more precise if the word "any" were substituted for the article "a" in the clause "Recombinant DNA molecules containing less than one-half of *a* eukaryotic viral genome. . . ." A motion to reconsider was adopted, and a motion to substitute the word "any" for the article "a" was recommended by a vote of seventeen in favor, none opposed, and no abstentions.

I accept these recommendations and Appendix C–I has been modified accordingly.

D. Proposal to Modify Appendix J, Federal Interagency Advisory Committee on Recombinant DNA Research, of the NIH Guidelines

In a memorandum dated November 25, 1985, Dr. Bernard Talbot, Deputy Director of the National Institute of Allergy and Infectious Diseases, noted that the NIH Guidelines for Research Involving Recombinant DNA Molecules (49 FR 46266) devotes Appendix J to a description of the Federal Interagency Advisory Committee on Recombinant DNA Research. Appendix J lists those departments and agencies which had representation on this committee as of December 1980.

Dr. Talbot wrote that this committee met from 1976 to 1980 but has not met since 1980. Recently another interagency committee, the Biotechnology Science Coordinating Committee, was established to provide for interagency science policy coordination and guidance and for exchange of information as announced in a **Federal Register** notice on November 14, 1985 (50 FR 47174).

Dr. Talbot suggested Appendix J be modified to reflect the current situation. He proposed that current Appendix J be deleted from the NIH Guidelines and the following language be substituted:

"Appendix J. Biotechnology Science Coordinating Committee

"The following excerpts from its charter (signed October 30, 1985) describe the Biotechnology Science Coordinating Committee:

"Purpose

"The Domestic Policy Working Group on Biotechnology has determined that in the area of biotechnology with its rapid growth of scientific discovery, scientific issues of interagency concern will arise frequently and need to be communicated among the various agencies involved with reviews of biotechnology applications. The Federal Coordinating Council for Science, Engineering, and Technology (FCCSET) established by 42 U.S.C. 6651 is an interagency science committee chaired by the Director of the Office of Science and Technology Policy with the mission of coordinating science activities affecting more than one agency. Committees may be established under FCCSET for addressing particular science issues. Thus, the Biotechnology Science Coordinating Committee (BSCC) is established to provide formally an opportunity for interagency science policy coordination and guidance and for the exchange of information regarding the scientific aspects of biotechnology applications submitted to Federal research and regulatory agencies for approval.

"Functions

"The BSCC will coordinate interagency review of scientific issues related to the assessment and approval of biotechnology research applications and biotechnology product applications and postmarketing surveillance when they involve the use of recombinant RNA, recombinant DNA, cell fusion or similar techniques. The BSCC will:

"(a) Serve as a coordinating forum for addressing scientific problems, sharing information, and developing consensus;

"(b) Promote consistency in the development of Federal agencies' review procedures and assessments;

"(c) Facilitate continuing cooperation among Federal agencies on emerging scientific issues; and

"(d) Identify gaps in scientific knowledge.

"Authority

"To accomplish these functions the BSCC is authorized to:

"(a) Receive documentation from agencies necessary for the performance of its function;

"(b) Conduct analyses of broad scientific issues that extend beyond those of any one agency;

"(c) Develop generic scientific recommendations that can be applied to similar, recurring applications;

"(d) Convene workshops, symposia, and generic research projects related to scientific issues in biotechnology; and

"(e) Hold periodic public meetings.

"Members and Chairman

"The BSCC includes the following initial members:

"Department of Agriculture
  Assistant Secretary for Marketing and Inspection Services
  Assistant Secretary for Science and Education
"Department of Health and Human Services
  Commissioner, Food and Drug Administration
  Director, National Institutes of Health
"Environmental Protection Agency
  Assistant Administrator for Pesticides and Toxic Substances
  Assistant Administrator for Research and Development
"National Science Foundation
  Assistant Director for Biological, Behavioral & Social Sciences

"The BSCC is chaired by the Assistant Director for Biological, Behavioral and Social Sciences of the National Science Foundation and the Director of the National Institutes of Health on a rotating basis.

"Administrative Provisions

"(a) The BSCC will report to the FCCSET through the Chair.

"(b) Meetings of the BSCC shall be held periodically. Some public meetings will be held.

"(c) Confidential business information and proprietary information shall be protected under the confidentiality requirements of each member agency.

"(d) Subcommittees and working groups, with participation not restricted to BSCC members or full-time Federal employees, may be formed to assist the BSCC in its work.

"(e) All BSCC members will be full-time Federal employees whose compensation, reimbursement for travel expenses and other costs shall be borne by their respective agencies.

"(f) Each member of the BSCC shall provide such agency support and resources as may be available and necessary for the operation of the BSCC including undertaking special studies as come within the functions assigned herein.

"(g) An Office of Science and Technology Policy staff member will serve as BSCC Executive Secretary."

This proposal was announced in the December 20, 1985, **Federal Register** (50 FR 52176) for public comment. No comments on the proposed were received.

The RAC considered this proposal at the January 27, 1986, meeting. By a vote

of seventeen in favor, none opposed, and no abstentions, RAC recommended approval of the proposal. I accept this recommendation and Appendix J has been modified accordingly.

II. Summary of Actions

A. Modification of the NIH Guidelines to Refer Specifically to RNA

(1) Section III–A–4 of section III–A, *Experiments that Require RAC Review and NIH and IBC Approval Before Initiation,* is modified to read as follows:

"III–A–4. Deliberate transfer of recombinant DNA or DNA or RNA derived from recombinant DNA into human subjects (21). The requirement for RAC review should not be considered to preempt any other required review of experiments with human subjects. Institutional Review Board (IRB) review of the proposal should be completed before submission to NIH."

(2) Section III–B–3 of section III–B, *Experiments that Require IBC Approval Before Initiation,* is modified to read as follows:

"III–B–3. *Experiments Involving the Use of Infectious Animal or Plant DNA or RNA Viruses or Defective Animal or Plant DNA or RNA Viruses in the Presence of Helper Virus in Tissue Culture Systems.*

"**Caution:** Special care should be used in the evaluation of containment levels for experiments which are likely to either enhance the pathogenicity (e.g., insertion of a host oncogene) or to extend the host range (e.g., introduction of novel control elements) of viral vectors under conditions which permit a productive infection. In such cases, serious consideration should be given to raising the physical containment by at least one level.

"**Note.**—Recombinant DNA molecules or RNA molecules derived therefrom which contain less then two-thirds of the genome of any eukaryotic virus (all virius from a single family (17) being considered identical (19)) may be considered defective and can be used in the absence of helper under the conditions specified in section III–C."

(3) Section III-B-4-a of section III-B, *Experiments that Require IBC Approval Before Initiation,* is modified to read as follows:

"III-4-a. Recombinant DNA or RNA molecules derived therefrom from any source except for greater than two-thirds of a eukaryotic viral genome may be transferred to any non-human vertebrate organism and propagated under conditions of physical containment comparable to BL1 and appropriate to the organism under study (2). It is important that the investigator demonstrate that the fraction of the viral genome being utilized does not lead to productive infection. A USDA permit is required for work with Class 5 agents (18, 20)."

B. Modification of Appendix C of the NIH Guidelines

(1) A new section Appendix C–V, *Extrachromosomal Elements of Gram Positive Organisms,* is added to Appendix C as follows:

"Recombinant DNA molecules derived entirely from extrachromosomal elements of the organisms listed below (including shuttle vectors constructed from vectors described in Appendix C), propagated and maintained in organisms listed below are exempt from these Guidelines.

Bacillus subtilis
Bacillus pumilus
Bacillus licheniformis
Bacillus thuringiensis
Bacillus cereus
Bacillus amyloliquefaciens
Bacillus brevis
Bacillus natto
Bacillus niger
Bacillus aterrimus
Bacillus amylosacchariticus
Bacillus anthracis
Bacillus globigii
Bacillus megaterium
Staphylococcus aureus
Staphylococcus epidermidis
Staphylococcus carnosus
Clostridium acetobutylicum
Pediococcus damnosus
Pediococcus pentosaceus
Pediococcus acidilactici
Lactobacillus casei
Listeria grayi
Listeria murrayi
Listeria monocytogenes
Streptococcus pyogenes
Streptococcus agalactiae
Streptococcus sanguis
Streptococcus salivarious
Streptococcus cremoris
Streptococcus pneumoniae
Streptococcus avium
Streptococcus faecalis
Streptococcus anginosus
Streptococcus sobrinus
Streptococcus lactis
Streptococcus mutans
Streptococcus equisimilis
Streptococcus thermophylus
Streptococcus milleri
Streptococcus durans
Streptococcus mitior
Streptococcus ferus

"Exceptions.

"Experiments described in section III–A which require specific RAC review and NIH approval before initiation of the experiment.

"Large-scale experiments (e.g., more than 10 liters of culture) require prior IBC review and approval (see section III-B-5).

"Experiments involving the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates (see Appendix F)."

(2) Current Appendix C–V, *Footnotes and References of Appendix C,* is renumbered Appendix C–VI.

(3) The second sentence of the first paragraph of Appendix C–IV, *Experiments Involving Bacillus subtilis Host-Vector Systems,* is deleted. The first paragraph of Appendix C–IV now reads as follows:

"Any asporogenic *Bacillus subtilis* strain which does not revert to a sporeformer with a frequency greater than 10^{-7} can be used for cloning DNA with the exception of those experiments listed below."

C. Revision of Appendix C–I

Appendix C–I is modified to read as follows:

"Appendix C–I. *Recombinant DNAs in Tissue Culture.* Recombinant DNA molecules containing less than one-half of any eukaryotic genome (all viruses from a single Family (4) being considered identical (5)) that are propagated and maintained in cells in tissue culture are exempt from these Guidelines with the exceptions listed below.

"Exceptions.

"Experiments described in Section III–A which require specific RAC review and NIH approval before initiation of the experiment.

"Experiments involving DNA from Class 3, 4 or 5 organisms (1) or cells known to be infected with these agents.

"Experiments involving the deliberate introduction of genes coding for the biosynthesis of molecules toxic for vertebrates (see Appendix F)."

Two new footnotes are added to new Appendix C-VI, *Footnotes and References of Appendix C,* as follows:

"4. As classified in the Third Report of the International Committee on Taxonomy of Viruses: Classification and Nomenclature of Viruses, R. E. F. Matthews, Ed. Intervirology 12 (129–296) 1979.

"5. i.e., the total of all genomes within a Family shall not exceed one-half of the genome."

D. Modification of Appendix J of the NIH Guidelines

Appendix J is modified to read as follows:

"Appendix J. Biotechnology Science Coordinating Committee

"The following excerpts from its charter (signed October 30, 1985) describe the Biotechnology Science Coordinating Committee:

"Purpose

"The Domestic Policy Working Group on Biotechnology has determined that in the area of biotechnology with its rapid growth of scientific discovery, scientific issues of interagency concern will arise frequently and need to be communicated among the various agencies involved with reviews of biotechnology applications. The Federal Coordinating Council for Science, Engineering, and Technology (FCCSET) established by 42 U.S.C. 6651 is an interagency science committee chaired by the Director of the Office of Science and Technology Policy with the mission of coordinating science activities affecting more

than one agency. Committees may be established under FCCSET for addressing particular science issues. Thus, the Biotechnology Science Coordinating Committee (BSSC) is established to provide formally an opportunity for interagency science policy coordination and guidance and for the exchange of information regarding the scientific aspects of biotechnology applications submitted to federal research and regulatory agencies for approval.

"Functions

"The BSCC will coordinate interagency review of scientific issues related to the assessment and approval of biotechnology research applications and biotechnology product applications and postmarketing surveillance when they involve the use of recombinant RNA, recombinant DNA, cell fusion or similar techniques. The BSCC will:

"(a) Serve as a coordinating forum for addressing scientific problems, sharing information, and developing consensus;

"(b) Promote consistancy in the development of Federal agencies' review procedures and assessments;

"(c) Facilitate continuing cooperation among Federal agencies on emerging scientific issues; and

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"Authority

"To accomplish these functions the BSCC is authorized to:

"(a) Receive documentation from agencies necessary for the performance of its function;

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"(c) Develop generic scientific recommendations that can be applied to similar, recurring applications;

"(d) Convene workshops, symposia, and generic research projects related to scientific issues in biotechnology; and

"(e) Hold periodic public meetings.

"Members and Chairman

"The BSCC includes the following initial members:

"Department of Agriculture
- Assistant Secretary for Marketing and Inspection Services
- Assistant Secretary for Science and Education

"Department of Health and Human Services
- Commissioner, Food and Drug Administration
- Director, National Institutes of Health

"Environmental Protection Agency
- Assistant Administrator for Pesticides and Toxic Substances
- Assistant Administrator for Research and Development

"National Science Foundation
- Assistant Director for Biological, Behavioral & Social Sciences

"The BSCC is chaired by the Assistant Director for Biological, Behavioral and Social Sciences of the National Science Foundation and the Director of the National Institutes of Health on a rotating basis.

"Administrative Provisions

"(a) The BSCC will report to the FCCSET through the Chair.

"(b) Meetings of the BSCC shall be held periodically. Some public meetings will be held.

"(c) Confidential business information and proprietary information shall be protected under the confidentiality requirements of each member agency.

"(d) Subcommittees and working groups, with participation not restricted to BSCC members or full-time Federal employees, may be formed to assist the BSCC in its work.

"(e) All BSCC members will be full-time Federal employees whose compensation, reimbursement for travel expenses and other costs shall be borne by their respective agencies.

"(f) Each member of the BSCC shall provide such agency support and resources as may be available and necessary for the operation of the BSCC including undertaking special studies as come within the functions assigned herein.

"(g) An Office of Science and Technology Policy staff member will serve as BSCC Executive Secretary."

Dated: April 18, 1986.

Thomas E. Malone, Ph.D.,

Acting Director, National Institutes of Health.

OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance*. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.

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Part III

Department of Health and Human Services

National Institutes of Health

Guidelines for Research Involving Recombinant DNA Molecules; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Guidelines for Research Involving Recombinant DNA Molecules

May 1986.

These NIH Guidelines supersede earlier versions and will be in effect until further notice.

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I. Scope of the Guidelines

I–A—Purpose

The purpose of these Guidelines is to specify practices for constructing and handling (i) recombinant DNA molecules and (ii) organisms and viruses containing recombinant DNA molecules.

I–B—Definition of Recombinant DNA Molecules

In the context of these Guidelines, recombinant DNA molecules are defined as either (i) molecules which are constructed outside living cells by joining natural or synthetic DNA segments to DNA molecules that can replicate in a living cell, or (ii) DNA molecules that result from the replication of those described in (i) above.

Synthetic DNA segments likely to yield a potentially harmful polynucleotide or polypeptide (e.g., a toxin or a pharmocologically active agent) shall be considered as equivalent to their natural DNA counterpart. If the synthetic DNA segment is not expressed *in vivo* as a biologically active polynucleotide or polypeptide product, it is exempt from the Guidelines.

I–C—General Applicability

The Guidelines are applicable to all recombinant DNA research within the United States or its territories which is conducted at or sponsored by an institution that receives any support for recombinant DNA research from the National Institutes of Health (NIH). This includes research performed by NIH directly.

An individual receiving support for research involving recombinant DNA must be associated with or sponsored by an institution that can and does assume the responsibilities assigned in these Guidelines.

The Guidelines are also applicable to projects done abroad if they are supported by NIH funds. If the host country, however, has established rules for the conduct of recombinant DNA projects, then a certificate of compliance with those rules may be submitted to NIH in lieu of compliance with the NIH Guidelines. The NIH reserves the right to withhold funding if the safety practices to be employed abroad are not reasonably consistent with the NIH Guidelines.

I–D—General Definitions

The following terms, which are used throughout the Guidelines, are defined as follows:

I–D–1. "Institution" means any public or private entity (including Federal, State, and local government agencies).

I–D–2. "Institutional Biosafety Committee" or "IBC" means a committee that (i) meets the requirements for membership specified in Section IV–B–2, and (ii) reviews, approves, and oversees projects in accordance with the responsibilities defined in Sections IV–B–2 and IV–B–3.

I–D–3. "NIH Office of Recombinant DNA Activities" or "ORDA" means the office within NIH with responsibility for (i) reviewing and coordinating all activities of NIH related to the Guidelines, and (ii) performing other duties as defined in Section IV–C–3.

I–D–4. "Recombinant DNA Advisory Committee" of "RAC" means the public advisory committee that advises the Secretary, the Assistant Secretary for Health, and the Director, NIH, concerning recombinant DNA research. The RAC shall be constituted as specified in Section IV–C–2.

I–D–5. "Director, NIH" or "Director" means the Director, NIH, or any other officer or employee of NIH to whom authority has been delegated.

II. Containment

Effective biological safety programs have been operative in a variety of laboratories for many years. Considerable information, therefore, already exists for the design of physical containment facilities and the selection of laboratory procedures applicable to organisms carrying recombinant DNAs [3–16]. The existing programs rely upon mechanisms that, for convenience, can be divided into two categories: (i) A set of standard practices that are generally used in microbiological laboratories; and (ii) special procedures, equipment, and laboratory installations that provide physical barriers which are applied in varying degrees according to the estimated biohazard. Four biosafety levels (BL) are described in Appendix G. These biosafety levels consist of combinations of laboratory practices and techniques, safety equipment, and laboratory facilities appropriate for the operations performed and the hazard posed by agents and for the laboratory function and activity. Biosafety level 4 (BL4) provides the most stringent containment conditions, BL1 the least stringent.

Experiments on recombinant DNAs by their very nature lend themselves to a third containment mechanism—namely, the application of highly specific biological barriers. In fact, natural barriers do exist which limit either (i) the infectivity of a *vector* or *vehicle* (plasmid or virus) for specific hosts, or (ii) its dissemination and survival in the environment. The vectors that provide the means for replication of the recombinant DNAs and/or the host cells in which they replicate can be genetically designed to decrease by many orders of magnitude the probability of dissemination of recombinant DNAs outside the laboratory. Further details on biological containment may be found in Appendix I.

As these three means of containment are complementary, different levels of containment appropriate for experiments with different recombinants can be established by applying various combinations of the physical and biological barriers along with a constant use of the standard practices. We consider these categories of containment separately in order that such combinations can be conveniently expressed in the Guidelines.

In constructing these Guidelines, it was necessary to define boundary conditions for the different levels of physical and biological containment and for the classes of experiments to which they apply. We recognize that these definitions do not take into account all existing and anticipated information on special procedures that will allow particular experiments to be carried out under different conditions than indicated here without affecting risk. Indeed, we urge that individual investigators devise simple and more effective containment procedures, and that investigators and IBCs recommend changes in the Guidelines to permit their use.

III. Guidelines for Covered Experiments

Part III discusses experiments involving recombinant DNA. These experiments have been divided into four classes:

III–A. Experiments which require specific RAC review and HIH and IBC approval before initiation of the experiment;

III–B. Experiments which require IBC approval before initiation of the experiment;

III–C. Experiments which require IBC notification at the time of initiation of the experiment;

III–D. Experiments which are exempt from the procedures of the Guidelines.

IF AN EXPERIMENT FALLS INTO BOTH CLASS III–A AND ONE OF THE OTHER CLASSES, THE RULES PERTAINING TO CLASS III–A MUST BE FOLLOWED. If an experiment falls into Class III–D and into either Class III–B or III–C as well, it can be considered

exempt from the requirements of the Guidelines.

Changes in containment levels from those specified here may not be instituted without the express approval of the Director, NIH (see Sections IV–C–1–b–(1), IV–C–1–b–(2), and subsections).

III–A—Experiments That Require RAC Review and NIH and IBC Approval Before Initiation

Experiments in this category cannot be initiated without submission of relevant information on the proposed experiment to NIH, the publication of the proposal in the **Federal Register** for thirty days of comment, review by the RAC, and specific approval by NIH. The containment conditions for such experiments will be recommended by RAC and set by NIH at the time of approval. Such experiments also require the approval of the IBC before initiation. Specific experiments already approved in this section and the appropriate containment conditions are listed in Appendices D and F. If an experiment is similar to those listed in Appendices D and F, ORDA may determine appropriate containment conditions according to case precedents under Section IV–C–1–b–(3)–(g).

If the experiments in this category are submitted for review to another Federal agency, the submitter shall notify ORDA; ORDA may then determine that such review serves the same purpose, and based on that determination, notify the submitter that no RAC review will take place, no NIH approval is necessary, and the experiment may proceed upon approval from the other Federal agency.

III–A–1. Deliberate formation of recombinant DNAs containing genes for the biosynthesis of toxic molecules lethal for vertebrates at an LD_{50} of less than 100 nanograms per kilogram body weight (e.g., microbial toxins such as the botulinum toxins, tetanus toxin, diphtheria toxin, *Shigella dysenteriae* neurotoxin). Specific approval has been given for the cloning in *E. coli* K–12 of DNAs containing genes coding for the biosynthesis of toxic molecules which are lethal to vertebrates at 100 nanograms to 100 micrograms per kilogram body weight. Containment levels for these experiments are specified in Appendix F.

III–A–2. Deliberate release into the environment of any organism containing recombinant DNA, except certain plants as described in Appendix L.

III–A–3. Deliberate transfer of a drug resistance trait to microorganisms that are not known to acquire it naturally [2], if such acquisition could compromise the use of the drug to control disease agents in human or veterinary medicine or agriculture.

III–A–4. Deliberate transfer of recombinant DNA or DNA or RNA derived from recombinant DNA into human subjects [21]. The requirement for RAC review should not be considered to preempt any other required review of experiments with human subjects. Institutional Review Board (IRB) review of the proposal should be completed before submissin to NIH.

III–B—Experiments That Require IBC Approval Before Initiation

Investigators performing experiments in this category must submit to their IBC, prior to initiation of the experiments, a registration document that contains a description of: (i) The source(s) of DNA; (ii) the nature of the inserted DNA sequences; (iii) the hosts and vectors to be used; (iv) whether a deliberate attempt will be made to obtain expression of a foreign gene, and, if so, what protein will be produced; and (v) the containment conditions specified in these Guidelines. This registration document must be dated and signed by the investigator and filed only with the local IBC. The IBC shall review all such proposals prior to initiation of the experiments. Requests for lowering of containment for experiments in this category will be considered by NIH (see Section IV–C–1–b–(3)).

III–B–1—Experiments Using Human or Animal Pathogens (Class 2, Class 3, Class 4, or Class 5 Agents [1]) as Host-Vector Systems

III–B–1–a. Experiments involving the introduction of recombinant DNA into Class 2 agents can be carried out at BL2 containment.

III–B–1–b. Experiments involving the introduction of recombinant DNA into Class 3 agents can be carried out at BL3 containment.

III–B–1–c. Experiments involving the introduction of recombinant DNA into Class 4 agents can be carried out at BL4 containment.

III–B–1–d. Containment conditions for experiments involving the introduction of recombinant DNA into Class 5 agents will be set on a case-by-case basis following ORDA review. A U.S. Department of Agriculture (USDA) permit is required for work with Class 5 agents [18, 20].

III–B–2—Experiments in Which DNA From Human or Animal Pathogens (Class 2, Class 3, Class 4, or Class 5 Agents [1]) is Cloned in Nonpathogenic Prokaryotic or Lower Eukaryotic Host-Vector Systems

III–B–2–a. Recombinant DNA experiments in which DNA from Class 2 or Class 3 agents [1] is transferred into nonpathogenic prokaryotes or lower eukaryotes may be performed under BL2 containment. Recombinant DNA experiments in which DNA from Class 4 agents is transferred into nonpathogenic prokaryotes or lower eukaryotes can be performed at BL2 containment after demonstration that only a totally and irreversibly defective fraction of the agent's genome is present in a given recombinant. In the absence of such a demonstration, BL4 containment should be used. Specific lowering of containment of BL1 for particular experiments can be approved by the IBC. Many experiments in this category will be exempt from the Guidelines (see Sections III–D–4 and III–D–5). Experiments involving the formation of recombinant DNAs for certain genes coding for molecules toxic for vertebrates require RAC review and NIH approval (see Section III–A–1) or must be carried out under NIH specified conditions as described in Appendix F.

III–B–2–b. Containment conditions for experiments in which DNA from Class 5 agents is transferred into nonpathogenic prokaryotes or lower eukaryotes will be determined by ORDA following a case-by-case review. A USDA permit is required for work with Class 5 agents [18, 20].

III–B–3—Experiments Involving the Use of Infectious Animal or Plant DNA or RNA Viruses or Defective Animal or Plant DNA or RNA Viruses in the Presence of Helper Virus in Tissue Culture Systems

Caution: Special care should be used in the evaluation of containment levels for experiments which are likely to either enhance the pathogenicity (e.g., insertion of a host oncogene) or to extend the host range (e.g., introduction of novel control elements) of viral vectors under conditions which permit a productive infection. In such cases, serious consideration should be given to raising the physical containment by at least one level.

Note.—Recombinant DNA molecules or RNA molecules derived therefrom, which contain less than two-thirds of the genome of any eukaryotic virus (all virus from a single Family [17] being considered identical [19]), may be considered defective and can be used

in the absence of helper under the conditions specified in Section III–C.

III–B–3–a. Experiments involving the use of infectious Class 2 animal viruses [1] or defective Class 2 animal viruses in the presence of helper virus can be performed at BL2 containment.

III–B–3–b. Experiments involving the use of infectious Class 3 animal viruses [1] or defective Class 3 animal viruses in the presence of helper virus can be carried out at BL3 containment.

III–B–3–c. Experiments involving the use of infectious Class 4 viruses [1] or defective Class 4 viruses in the presence of helper virus may be carried out under BL4 containment.

III–B–3–d. Experiments involving the use of infectious Class 5 [1] viruses or defective Class 5 viruses in the presence of helper virus will be determined on a case-by-case basis following ORDA review. A USDA permit is required for work with Class 5 pathogens [18, 20].

III–B–3–e. Experiments involving the use of infectious animal or plant viruses or defective animal or plant viruses in the presence of helper virus not covered by Sections III–B–3–a, III–B–3–b, III–B–3–c, or III–B–3–d may be carried out under BL1 containment.

III–B–4—Recombinant DNA Experiments Involving Whole Animals or Plants

III–B–4–a. Recombinant DNA, or RNA molecules derived therefrom, from any source except for greater than two-thirds of a eukaryotic viral genome may be transferred to any non-human vertebrate organism and propagated under conditions of physical containment comparable to BL1 and appropriate to the organism under study [2]. It is important that the investigator demonstrate that the fraction of the viral genome being utilized does not lead to productive infection. A USDA permit is required for work with Class 5 agents [18, 20].

III–B–4–b. For all experiments involving whole animals and plants and not covered by Section III–B–4–a, the appropriate containment will be determined by the IBC [22].

III–B–5—Experiments Involving More Than 10 Liters of Culture

The appropriate containment will be decided by the IBC. Where appropriate, Appendix K, *Physical Containment for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules*, should be used.

III–C. Experiments That Require IBC Notice Simultaneously With Initiation of Experiments

Experiments not included in Sections III–A, III–B, III–D, and subsections of these sections are to be considered in Section III–C. All such experiments can be carried out at BL1 containment. For experiments in this category, a registration document as described in Section III–B must be dated and signed by the investigator and filed with the local IBC at the time of initiation of the experiment. The IBC shall review all such proposals, but IBC review prior to initiation of the experiment is not required. (The reader should refer to the policy statement in the first two paragraphs of Section IV–A.)

For example, experiments in which all components derive from non-pathogenic prokaryotes and non-pathogenic lower eukaryotes fall under Section III–C and can be carried out at BL1 containment.

CAUTION: Experiments Involving Formation of Recombinant DNA Molecules Containing no more than Two-Thirds of the Genome of any Eukaryotic Virus. Recombinant DNA molecules containing no more than two-thirds of the genome of any eukaryotic virus (all viruses from a single Family [17] being considered identical [19]) may be propagated and maintained in cells in tissue culture using BL1 containment. For such experiments, it must be shown that the cells lack helper virus for the specific Families of defective viruses being used. If helper virus is present, procedures specified under Section III–B–3 should be used. The DNA may contain fragments of the genome of viruses from more than one Family but each fragment must be less than two-thirds of a genome.

III–D—Exempt Experiments

The following recombinant DNA molecules are exempt from these Guidelines and no registration with the IBC is necessary:

III–D–1. Those that are not in organisms or viruses.

III–D–2. Those that consist entirely of DNA segments from a single nonchromosomal or viral DNA source though one or more of the segments may be a synthetic equivalent.

III–D–3. Those that consist entirely of DNA from a prokaryotic host including its indigenous plasmids or viruses when propagated only in that host (or a closely related strain of the same species) or when transferred to another host by well established physiological means; also, those that consist entirely of DNA from an eukaryotic host including its chloroplasts, mitochondria, or plasmids (but excluding viruses) when propagated only in that host (or a closely related strain of the same species).

III–D–4. Certain specified recombinant DNA molecules that consist entirely of DNA segments from different species that exchange DNA by known physiological processes though one or more of the segments may be a synthetic equivalent. A list of such exchangers will be prepared and periodically revised by the Director, NIH, with advice of the RAC after appropriate notice and opportunity for public comment (see Section IV–C–1–b–(1)–(c)). Certain classes are exempt as of publication of these revised Guidelines. This list is in Appendix A. An updated list may be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, Building 31, Room 3B10, Bethesda, Maryland 20892.

III–D–5. Other classes of recombinant DNA molecules—if the Director, NIH, with advice of the RAC, after appropriate notice and opportunity for public comment, finds that they do not present a significant risk to health or the environment (see Section IV–C–1–b–(1)–(c)). Certain classes are exempt as of publication of these revised Guidelines. The list is in Appendix C. An updated list may be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, Building 31, Room 3B10, Bethesda, Maryland 20892.

IV. Roles and Responsibilities

IV–A—Policy

Safety in activities involving recombinant DNA depends on the individual conducting them. The Guidelines cannot anticipate every possible situation. Motivation and good judgment are the key essentials to protection of health and the environment.

The Guidelines are intended to help the institution, Institutional Biosafety Committee (IBC), Biological Safety Officer (BSO), and Principal Investigator (PI) determine the safeguards that should be implemented. These Guidelines will never be complete or final, since all conceivable experiments involving recombinant DNA cannot be foreseen. Therefore, *it is the responsibility of the institution and those associated with it to adhere to the intent of the Guidelines as well as to their specifics.*

Each institution (and the IBC acting on its behalf) is responsible for ensuring that recombinant DNA activities comply with the Guidelines. General recognition of institutional authority and

responsibility properly establishes accountability for safe conduct of the research at the local level.

The following roles and responsibilities constitute an administrative framework in which safety is an essential and integral part of research involving recombinant DNA molecules. Further clarifications and interpretations of roles and responsibilities will be issued by NIH as necessary.

IV–B—Responsibility of the Institution

IV–B–1. General Information. Each institution conducting or sponsoring recombinant DNA research covered by these Guidelines is responsible for ensuring that the research is carried out in full conformity with the provisions of the Guidelines. In order to fulfill this responsibility, the institution shall:

IV–B–1–a. Establish and implement policies that provide for the safe conduct of recombinant DNA research and that ensure compliance with the Guidelines. The institution as part of its general responsibilities for implementing the Guidelines may establish additional procedures as deemed necessary to govern the institution and its components in the discharge of its responsibilities under the Guidelines. This may include: (i) Statements formulated by the institution for general implementation of the Guidelines, and (ii) whatever additional precautionary steps the institution may deem appropriate.

IV–B–1–b. Establish an IBC that meets the requirements set forth in Section IV–B–2 and carries out the functions detailed in Section IV–B–3.

IV–B–1–c. If the institution is engaged in recombinant DNA research at the BL3 or BL4 containment level, appoint a BSO, who shall be a member of the IBC and carry out the duties specified in Section IV–B–4.

IV–B–1–d. Require that investigators responsible for research covered by these Guidelines comply with the provisions of Section IV–B–5 and assist investigators to do so.

IV–B–1–e. Ensure appropriate training for the IBC chairperson and members, the BSO, PIs, and laboratory staff regarding the Guidelines, their implementation, and laboratory safety. Responsibility for training IBC members may be carried out through the IBC chairperson. Responsibility for training laboratory staff may be carried out through the PI. The institution is responsible for seeing that the PI has sufficient training but may delegate this responsibility to the IBC.

IV–B–1–f. Determine the necessity in connection with each project for health surveillance of recombinant DNA research personnel, and conduct, if found appropriate, a health surveillance program for the project. [The "Laboratory Safety Monograph" (LSM) discusses various possible components of such a program—for example, records of agents handled, active investigation of relevant illnesses, and the maintenance of serial serum samples for monitoring serologic changes that may result from the employees' work experience. Certain medical conditions may place a laboratory worker at increased risk in any endeavor where infectious agents are handled. Examples given in the LSM include gastrointestinal disorders and treatment with steroids, immunosuppressive drugs, or antibiotics. Workers with such disorders or treatment should be evaluated to determine whether they should be engaged in research with potentially hazardous organisms during their treatment or illness. Copies of the LSM are available from ORDA.]

IV–B–1–g. Report within 30 days to ORDA any significant problems with and violations of the Guildelines and significant research-related accidents and illnesses, unless the institution determines that the PI or IBC has done so.

IV–B–2. Membership and Procedures of the IBC. The institution shall establish an IBC whose responsibilities need not be restricted to recombinant DNA. The committee shall meet the following requirements:

IV–B–2–a. The IBC shall comprise no fewer than five members so selected that they collectively have experience and expertise in recombinant DNA technology and the capability to assess the safety of recombinant DNA research experiments and any potential risk to public health or the environment. At least two members shall not be affiliated with the institution (apart from their membership on the IBC) and shall represent the interest of the surrounding community with respect to health and protection of the environment. Members meet this requirement if, for example, they are officials of State or local public health or environmental protection agencies, members of other local governmental bodies, or persons active in medical, occupational health, or environmental concerns in the community. The BSO, mandatory when research is being conducted at the BL3 and BL4 levels, shall be a member (see Section IV–B–4).

IV–B–2–b. In order to ensure the competence necessary to review recombinant DNA activities, it is recommended that: (i) The IBC include persons with expertise in recombinant DNA technology, biological safety, and physical containment; (ii) the IBC include, or have available as consultants, persons knowledgeable in institutional commitments and policies, applicable law, standards of professional conduct and practice, community attitudes, and the environment; and (iii) at least one member be from the laboratory technical staff.

IV–B–2–c. The institution shall identify the committee members by name in a report to ORDA and shall include relevant background information on each member in such form and at such times as ORDA may require.

IV–B–2–d. No member of an IBC may be involved (except to provide information requested by the IBC) in the review or approval of a project in which he or she has been or expects to be engaged or has a direct financial interest.

IV–B–2–e. The institution, who is ultimately responsible for the effectiveness of the IBC, may establish procedures that the IBC will follow in its initial and continuing review of applications, proposals, and activities. (IBC review procedures are specified in Section IV–B–3–a.)

IV–B–2–f. Institutions are encouraged to open IBC meetings to public whenever possible, consistent with protection of privacy and proprietary interests.

IV–B–2–g. Upon request, the institution shall make available to the public all minutes of IBC meetings and any documents submitted to or received from funding agencies which the latter are required to make available to the public. If comments are made by members of the public on IBC actions, the institution shall forward to NIH both the comments and the ICB's response.

IV–B–3. Functions of the IBC. On behalf of the institution, the IBC is responsible for:

IV–B–3–a. Reviewing for compliance with the NIH Guidelines recombinant DNA research as specified in Part III conducted at or sponsored by the institution, and approving those research projects that it finds are in conformity with the Guidelines. This review shall include:

IV–B–3–a–(1). An independent assessment of the containment levels required by these Guidelines for the proposed research, and

IV–B–3–a–(2). An assessment of the facilities, procedures, and practices, and of the training and expertise of recombinant DNA personnel.

IV–B–3–b. Notifying the PI of the results of their review.

IV–B–3–c. Lowering containment levels for certain experiments as specified in Sections III–B–2.

IV–B–3–d. Setting containment levels as specified in Section III–B–4–b and III–B–5.

IV–B–3–e. Reviewing periodically recombinant DNA research being conducted at the institution to ensure that the requirements of the Guidelines are being fulfilled.

IV–B–3–f. Adopting emergency plans covering accidental spills and personnel contamination resulting from such research.

Note.—Basic elements in developing specific procedures for dealing with major spills of potentially hazardous materials in the laboratory are detailed in the LSM. Included are information and references on decontamination and emergency plans. The NIH and the Centers for Disease Control are available to provide consultation and direct assistance, if necessary, as posted in the LSM. The institution shall cooperate with the State and local public health departments reporting any significant research-related illness or accident that appears to be a hazard to the public health.

IV–B–3–g. Reporting within 30 days to the appropriate institutional official and to ORDA any significant problems with or violations of the Guidelines and any significant research-related accidents or illnesses unless the IBC determines that the PI has done so.

IV–B–3–h. The IBC may not authorize initiation of experiments not explicitly covered by the Guidelines until NIH (with the advice of the RAC when required) establishes the containment requirement.

IV–B–3–i. Performing such other functions as may be delegated to the IBC under Section IV–B–1.

IV–B–4. Biological Safety Officer. The institution shall appoint a BSO if it engages in recombinant DNA research at the BL3 or BL4 containment level. The officer shall be a member of the IBC, and his or her duties shall include (but need not be limited to):

IV–B–4–a. Ensuring through periodic inspections that laboratory standards are rigorously followed;

IV–B–4–b. Reporting to the IBC and the institution all significant problems with and violations of the Guidelines and all significant research-related accidents and illnesses of which the BSO becomes aware unless the BSO determines that the PI has done so;

IV–B–4–c. Developing emergency plans for dealing with accidental spills and personnel contamination and investigating recombinant DNA research laboratory accidents;

IV–B–4–d. Providing advice on laboratory security;

IV–B–4–e. Providing technical advice to the PI and the IBC on research safety procedures.

Note.—See the LSM for additional information on the duties of the BSO.

IV–B–5. Principal Investigator (PI). On behalf of the institution, the PI is responsible for complying fully with the Guidelines in conducting any recombinant DNA research.

IV–B–5. PI—General. As part of this general responsibility, the PI shall:

IV–B–5–a–(1). Initiate or modify no recombinant DNA research requiring approval by the IBC prior to initiation (see Sections III–A and III–B) until that research or the proposed modification thereof has been approved by the IBC and has met all other requirements of the Guidelines;

IV–B–5–a–(2). Determine whether experiments are covered by Section III–C and follow the appropriate procedures;

IV–B–5–a–(3). Report within 30 days to the IBC and NIH (ORDA) all significant problems with and violations of the Guidelines and all significant research-related accidents and illnesses;

IV–B–5–a–(4). Report to the IBC and to NIH (ORDA) new information bearing on the Guidelines;

IV–B–5–a–(5). Be adequately trained in good microbiological techniques;

IV–B–5–a–(6). Adhere to IBC-approved emergency plans for dealing with accidental spills and personnel contamination; and

IV–B–5–a–(7). Comply with shipping requirements for recombinant DNA molecules. (See Appendix H for shipping requirements and the LSM for technical recommendations.)

IV–B–5–b. Submissions by the PI to NIH. The PI shall:

IV–B–5–b–(1). Submit information to NIH (ORDA) in order to have new host-vector systems certified;

IV–B–5–b–(2). Petition NIH with notice to the IBC for exemptions to these Guidelines;

IV–B–5–b–(3). Petition NIH with concurrence of the IBC for approval to conduct experiments specified in Section III–A of the Guidelines;

IV–B–5–b–(4). Petition NIH for determination of containment for experiments requiring case-by-case review;

IV–B–5–b–(5). Petition NIH for determination of containment for experiments not covered by the Guidelines.

IV–B–5–c. Submissions by the PI to the IBC. The PI shall:

IV–B–5–c–(1). Make the initial determination of the required levels of physical and biological containment in accordance with the Guidelines;

IV–B–5–c–(2). Select appropriate microbiological practices and laboratory techniques to be used in the research;

IV–B–5–c–(3). Submit the initial research protocol if covered under Guidelines Section III–A, III–B, or III–C (and also subsequent changes—e.g., changes in the source of DNA or host-vector system) to the IBC for review and approval or disapproval; and

IV–B–5–c–(4). Remain in communication with the IBC throughout the conduct of the project.

IV–B–5–d. PI Responsibilities Prior to Initiating Research. The PI is responsible for:

IV–B–5–d–(1). Making available to the laboratory staff copies of the protocols that describe the potential biohazards and the precautions to be taken;

IV–B–5–d–(2). Instructing and training staff in the practices and techniques required to ensure safety and in the procedures for dealing with accidents; and

IV–B–5–d–(3). Informing the staff of the reasons and provisions for any precautionary medical practices advised or requested, such as vaccinations or serum collection.

IV–B–5–e. PI Responsibilities During the Conduct of the Research. The PI is responsible for:

IV–B–5–e–(1). Supervising the safety performance of the staff to ensure that the required safety practices and techniques are employed;

IV–B–5–e–(2). Investigating and reporting in writing to ORDA, the BSO (where applicable), and the IBC any significant problems pertaining to the operation and implementation of containment practices and procedures;

IV–B–5–e–(3). Correcting work errors and conditions that may result in the release of recombinant DNA materials;

IV–B–5–e–(4). Ensuring the integrity of the physical containment (e.g., biological safety cabinets) and the biological containment (e.g., purity and genotypic and phenotypic characteristics).

IV–C—Responsibilities of NIH

IV–C–1. Director. The Director, NIH, is responsible for (i) establishing the NIH Guidelines for Research Involving Recombinant DNA Molecules, (ii) overseeing their implementation, and (iii) their final interpretation.

The Director has responsibilities under the Guidelines that involve ORDA and RAC. The ORDA's responsibilities under the Guidelines are administrative. Advice from the RAC is primarily

scientific and technical. In certain circumstances, there is specific opportunity for public comment with published response before final action.

IV–C–1–a. General Responsibilities of the Director, NIH. The responsibilities of the director shall include the following:

IV–C–1–a–(1). Promulgating requirements as necessary to implement the Guidelines;

IV–C–1–a–(2). Establishing and maintaining the RAC to carry out the responsibilities set forth in Section IV–C–2. The RAC's membership is specified in its charter and in Section IV–C–2;

IV–C–1–a–(3). Establishing and maintaining ORDA to carry out the responsibilities defined in Section IV–C–3.

IV–C–1–b. Specific Responsibilities of the Director, NIH. In carrying out the responsibilities set forth in this section, the director or a designee shall weigh each proposed action through appropriate analysis and consultation to determine that it complies with the Guidelines and presents no significant risk to health or the environment.

IV–C–1–b–(1). Major Actions. To execute major actions the director must seek the advice of the RAC and provide an opportunity for public and Federal agency comment. Specifically, the agenda of the RAC meeting citing the major actions will be published in the Federal Register at least 30 days before the meeting, and the director will also publish the proposed actions in the Federal Register for comment as least 30 days before the meeting. In addition, the director's proposed decision, at his discretion, may be published in the Federal Register for 30 days of comment before final action is taken. The director's final decision, along with response to the comments, will be published in the Federal Register and the *Recombinant DNA Technical Bulletin.* The RAC and IBC chairpersons will be notified of this decision:

IV–C–1–b–(1)–(a). Changing containment levels for types of experiments that are specified in the Guidelines when a major action is involved;

IV–C–1–b–(1)–(b). Assigning containment levels for types of experiments that are not explicitly considered in the Guidelines when a major action is involved;

IV–C–1–b–(1)–(c). Promulgating and amending a list of classes of recombinant DNA molecules to be exempt from these Guidelines because they consist entirely of DNA segments from species that exchange DNA by known physiological processes or otherwise do not present a significant risk to health or the environment;

IV–C–1–b–(1)–(d). Permitting experiments specified by Section III–A of the Guidelines;

IV–C–1–b–(1)–(e). Certifying new host-vector systems with the exception of minor modifications of already certified systems (the standards and procedures for certification are described in Appendix I–II–A. Minor modifications constitute, for example, those of minimal or no consequence to the properties relevant to containment); and

IV–C–1–b–(1)–(f). Adopting other changes in the Guidelines.

IV–C–1–b–(2). Lesser Actions. To execute lesser actions, the director must seek the advice of the RAC. The director's decision will be transmitted to the RAC and IBC chairpersons and publiched in the *Recombinant DNA Technical Bulletin:*

IV–C–1–b–(2)–(a). Interpreting and determining containment levels upon request by ORDA;

IV–C–1–b–(2)–(b). Changing containment levels for experiments that are specified in the Guidelines (see Section III);

IV–C–1–b–(2)–(c). Assigning containment levels for experiments not explicitly considered in the Guidelines;

IV–C–1–b–(2)–(d). Revising the "Classification of Etiologic Agents" for the purpose of these Guidelines [1].

IV–C–1–b–(3). Other Actions. The director's decision will be transmittede to the RAC and IBC chairpersons and published in the *Recombinant DNA Technical Bulletin:*

IV–C–1–b–(3)–(a). Interpreting the Guidelines for experiments to which the Guidelines specifically assign containment levels;

IV–C–1–b–(3)–(b). Setting containment under Section III–B–1–d and Section III–B–3–d;

IV–C–1–b–(3)–(c). Approving minor modifications of already certified host-vector systems (the standards and procedures for such modifications are described in Appendix I–II);

IV–C–1–b–(3)–(d). Decertifying already certified host-vector systems;

IV–C–1–b–(3)–(e). Adding new entries to the list of molecules toxic for vertebrates (see Appendix F);

IV–C–1–b–(3)–(f). Approving the cloning of toxin genes in host-vector systems other than *E. coli* K–12 (see Appendix F); and

IV–C–1–b–(3)–(g). Determining appropriate containment conditions for experiments according to case precedents developed under Section IV–C–1–b–(2)–(c).

IV–C–1–b–(4). The director shall conduct, support, and assist training programs in laboratory safety for IBC members, BSOs, PIs, and laboratory staff.

IV–C–2. Recombinant DNA Advisory Committee. The Recombinant DNA Advisory Committee (RAC) is responsible for carrying out specified functions cited below as well as others assigned under its charter or by the Secretary, HHS, the Assistant Secretary for Health, and the Director, NIH.

The committee shall consist of 25 members including the chair, appointed by the Secretary or his or her designee, at least fourteen of whom shall be selected from authorities knowledgeable in the fields of molecular biology or recombinant DNA research or in scientific fields other than molecular biology or recombinant DNA research, and at least six of whom shall be persons knowledgeable in applicable law, standards of professional conduct and practice, public attitudes, the environment, public health, occupational health, or related fields. Representatives from Federal agencies shall serve as non-voting members. Nominations for the RAC may be submitted to the Office of Recombinant DNA Activities, National Institutes of Health, Building 31, Room 3B10, Bethesda, MD 20892.

All meetings of the RAC will be announced in the Federal Register, including tentative agenda items, 30 days in advance of the meeting with final agendas (if modified) available at least 72 hours before the meeting. No item defined as a major action under Section IV–C–1–b–(1) may be added to an agenda after it appears in the Federal Register.

The RAC shall be responsible for advising the Director, NIH, on the actions listed in Section IV–C–1–b–(1) and IV–C–1–b–(2).

IV–C–3. The Office of Recombinant DNA Activities. The ORDA shall serve as a focal point for information on recombinant DNA activities and provide advice to all within and outside NIH including Institutions, BSOs, PIs, Federal agencies, State and local governments and institutions in the private sector. The ORDA shall carry out such other functions as may be delegated to it by the Director, NIH, including those authorities described in Section IV–C–1–b–(3). In addition, ORDA shall be responsible for the following:

IV–C–3–a. Reviewing and approving IBC membership;

IV–C–3–b. Publishing in the Federal Register:

IV–C–3–b–(1). Announcements of RAC meetings and agendas at least 30 days in advance;

Note.—If the agenda for an RAC meeting is modified, ORDA shall make the revised agenda available to anyone upon request at least 72 hours in advance of the meeting.

IV–C–3–b–(2). Proposed major actions of the type falling under Section IV–C–1–b–(1) at least 30 days prior to the RAC meeting at which they will be considered; and

IV–C–3–b–(3). The NIH director's final decision on recommendations made by the RAC.

IV–C–3–c. Publishing the *Recombinant DNA Technical Bulletin;* and

IV–C–3–d. Serving as executive secretary of the RAC.

IV–C–4. Other NIH Components. Other NIH components shall be responsible for certifying maximum containment (BL4) facilities, inspecting them periodically, and inspecting other recombinant DNA facilities as deemed necessary.

IV–D—Compliance

As a condition for NIH funding of recombinant DNA research, institutions must ensure that such research conducted at or sponsored by the institution, irrespective of the source of funding, shall comply with these Guidelines. The policies on noncompliance are as follows:

IV–D–1. All NIH-funded projects involving recombinant DNA techniques must comply with the NIH Guidelines. Noncompliance may result in (i) suspension, limitation, or termination of financial assistance for such projects and of NIH funds for other recombinant DNA research at the institution, or (ii) a requirement for prior NIH approval of any or all recombinant DNA projects at the Institution.

IV–D–2. All non-NIH funded projects involving recombinant DNA techniques conducted at or sponsored by an institution that receives NIH funds for projects involving such techniques must comply with the NIH Guidelines. Noncompliance may result in: (i) Suspension, limitation, or termination of NIH funds for recombinant DNA research at the institution, or (ii) a requirement for prior NIH approval of any or all recombinant DNA projects at the institution.

IV–D–3. Information concerning noncompliance with the Guidelines may be brought forward by any person. It should be delivered to both NIH (ORDA) and the relevant Institution. The institution, generally through the IBC, shall take appropriate action. The institution shall forward a complete report of the incident to ORDA, recommending any further action.

IV–D–4. In cases where NIH proposes to suspend, limit, or terminate financial assistance because of noncompliance with the Guidelines, applicable DHHS and Public Health Service procedures shall govern.

IV–D–5. Voluntary Compliance. Any individual, corporation, or institution that is not otherwise covered by the Guidelines is encouraged to conduct recombinant DNA research activities in accordance with the Guidelines through the procedures set forth in Part VI.

V. Footnotes and References of Sections I–IV

1. The original reference to organisms as Class 1, 2, 3, 4, or 5 refers to the classification in the publication *Classification of Etiologic Agents on the Basis of Hazard,* 4th Edition, July 1974; U.S. Department of Health, Education, and Welfare, Public Health Service, Centers for Disease Control, Office of Biosafety, Atlanta, Georgia 30333.

The Director, NIH, with advice of the Recombinant DNA Advisory Committee, may revise the classification for the purposes of these Guidelines (see Section IV–C–1–b–(2)–(d)). The revised list of organisms in each class is reprinted in Appendix B to these Guidelines.

2. In Part III of the Guidelines, there are a number of places where judgments are to be made. In all these cases the principal investigator is to make the judgment on these matters as part of his responsibility to "make the initial determination of the required levels of physical and biological containment in accordance with the Guidelines" (Section IV–B–5–c–(1)). In the cases falling under Sections III–A, –B or –C, this judgment is to be reviewed and approved by the IBC as part of its responsibility to make "an independent assessment of the containment levels required by these Guidelines for the proposed research" (Section IV–B–3–a–(1)). If the IBC wishes, any specific cases may be referred to ORDA as part of ORDA's functions to "provide advice to all within and outside NIH" (Section IV–C–3), and ORDA may request advice from the RAC as part of the RAC's responsibility for "interpreting and determining containment levels upon request by ORDA" (Section IV–C–1–b–(2)–(a)).

3. *Laboratory Safety at the Center for Disease Control* (Sept. 1974). U.S. Department of Health, Education and Welfare Publication No. CDC 75–8118.

4. *Classification of Etiologic Agents on the Basis of Hazard* (4th Edition, July 1974). U.S. Department of Health, Education and Welfare. Public Health Service. Centers for Disease Control, Office of Biosafety, Atlanta, Georgia 30333.

5. *National Cancer Institute Safety Standards for Research Involving Oncogenic Viruses* (Oct. 1974). U.S. Department of Health, Education and Welfare Publication No. (NIH) 75–790.

6. *National Institutes of Health Biohazards Safety Guide* (1974). U.S. Department of Health, Education and Welfare, Public Health Service, National Institutes of Health. U.S. Government Printing Office, Stock No. 1740–00383.

7. *Biohazards in Biological Research* (1973). A. Hellman, M.N. Oxman, and R. Pollack (ed.) Cold Spring Harbor Laboratory.

8. *Handbook of Laboratory Safety* (1971). 2nd Edition. N.V. Steere (ed.). The Chemical Rubber Co., Cleveland.

9. Bodily, J.L. (1970). *General Administration of the Laboratory,* H.L. Bodily, E.L. Updyke, and J.O. Mason (eds.), Diagnostic Procedures for Bacterial, Mycotic and Parasitic Infections. American Public Health Association, New York, pp. 11–28.

10. Darlow, H.M. (1969). *Safety in the Microbiological Laboratory.* In J.R. Norris and D.W. Robbins (ed.), Methods in Microbiology. Academic Press, Inc., New York, pp. 169–204.

11. *The Prevention of Laboratory Acquired Infection* (1974). C.H. Collins, E.G. Hartley, and R. Pilsworth. Public Health Laboratory Service, Monograph Series No. 6.

12. Chatigny, M.A. (1961). *Protection Against Infection in the Microbiological Laboratory: Devices and Procedures.* In W.W. Umbreit (ed.). Advances in Applied Microbiology. Academic Press, New York, N.Y. 3:131–192.

13. *Design Criteria for Viral Oncology Research Facilities* (1975). U.S. Department of Health, Education and Welfare, Public Health Service, National Institutes of Health, DHEW Publication No. (NIH) 75–891.

14. Kuehne, R.W. (1973). *Biological Containment Facility for Studying Infectious Disease.* Appl. Microbiol. 26–239–243.

15. Runkle, R.S., and G.B. Phillips (1969). *Microbial Containment Control Facilities.* Van Nostrand Reinhold, New York.

16. Chatigny, M.A., and D.I. Clinger (1969). *Contamination Control in Aerobiology.* In R.L. Dimmick and A.B. Akers (eds.). An Introduction to Experimental Aerobiology. John Wiley & Sons, New York, pp. 194–263.

17. As classified in the Third Report of the International Committee on Taxonomy of Viruses: Classification and Nomenclature of Viruses, R.E.F. Matthews, Ed. Intervirology 12 (129–296) 1979.

18. A USDA permit, required for import and interstate transport of pathogens, may be obtained from the Animal and Plant Health Inspection Service, USDA, Federal Building, Hyattsville, MD 20782.

19. i.e., the total of all genomes within a Family shall not exceed two-thirds of the genome.

20. All activities, including storage of variola and whitepox, are restricted to the single national facility (World Health Organization (WHO) Collaborating Center for Smallpox Research, Centers for Disease Control, in Atlanta).

21. Section III–A–4 covers only those experiments in which the intent is to modify stably the genome of cells of a human subject. Other experiments involving recombinant DNA in human subjects such as feeding of bacteria containing recombinant DNA or the administration of vaccines containing recombinant DNA are not covered in Section III–A–4 of the Guidelines.

22. For recombinant DNA experiments in which the intent is to modify stably the genome of cells of a human subject, see Section III–A–4.

VI. Voluntary Compliance

VI–A.—Basic Policy

Individuals, corporations, and institutions not otherwise covered by the Guidelines are encouraged to do so by following the standards and procedures set forth in Parts I–IV of the Guidelines. In order to simplify discussion, references hereafter to "institutions" are intended to encompass corporations, and individuals who have no organizational affiliation. For purposes of complying with the Guidelines, an individual intending to carry out research involving recombinant DNA is encouraged to affiliate with an institution that has an IBC approved under the Guidelines.

Since commercial organizations have special concerns, such as protection of proprietary data, some modifications and explanations of the procedures in Parts I–IV are provided below, in order to address these concerns.

VI–B—IBC Approval

The ORDA will review the membership of an institution's IBC, and where it finds the IBC meets the requirements set forth in Section IV–B–2 will give its approval to the IBC membership.

It should be emphasized that employment of an IBC member solely for purposes of membership on the IBC does not itself make the member an institutionally affiliated member for purposes of Section IV–B–2–a.

Except for the unaffiliated members, a member of an IBC for an institution not otherwise covered by the Guidelines may participate in the review and approval of a project in which the member has a direct financial interest so long as the member has not been, and does not expect to be, engaged in the project. Section IV–B–2–d is modified to that extent for purposes of these institutions.

VI–C—Certification of Host-Vector Systems

A host-vector system may be proposed for certification by the Director, NIH, in accordance with the procedures set forth in Appendix I–II–A.

In order to ensure protection for proprietary data, any public notice regarding a host-vector system which is designated by the institution as proprietary under Section VI–E–1 will be issued only after consultation with the institution as to the content of the notice.

VI–D—Requests for Exemptions and Approvals

Requests for exemptions or other approvals required by the Guidelines should be requested by following the procedures set forth in the appropriate sections in Parts I–IV of the Guidelines.

In order to ensure protection for proprietary data, any public notice regarding a request for an exemption or other approval which is designated by the institution as proprietary under Section VI–E–1 will be issued only after consultation with the institution as to the content of the notice.

VI–E—Protection of Proprietary Data

In general, the Freedom of Information Act requires Federal agencies to make their records available to the public upon request. However, this requirement does not apply to, among other things, "trade secrets and commercial and financial information obtained from a person and privileged or confidential." 18 U.S.C. 1905, in turn makes it a crime for an officer or employee of the United States or any Federal department or agency to publish, divulge, disclose, or make known "in any manner or to any extent not authorized by law any information coming to him in the course of his employment or official duties or by reason of any examination or investigation made by, or return, report or record made to or filed with, such department or agency or officer or employee thereof, which information concerns or relates to the trade secrets, [or] processes . . . of any person, firm, partnership, corporation, or association." This provision applies to all employees of the Federal Government, including special Government employees. Members of the Recombinant DNA Advisory Committee are "special Government employees."

VI–E–1. In submitting to NIH for purposes of complying voluntarily with the Guidelines, an institution may designate those items of information which the institution believes constitute trade secrets, privileged, confidential commercial, or financial information.

VI–E–2. If NIH receives a request under the Freedom of Information Act for information so designated, NIH will promptly contact the institution to secure its views as to whether the information (or some portion) should be released.

VI–E–3. If the NIH decides to release this information (or some portion) in response to a Freedom of Information request or otherwise, the institution will be advised; and the actual release will not be made until the expiration of 15 days after the institution is so advised except to the extent that earlier release in the judgment of the Director, NIH, is necessary to protect against an imminent hazard to the public or the environment.

VI–E–4. Presubmission Review.

VI–E–4–a. Any institution not otherwise covered by the Guidelines, which is considering submission of data or information voluntarily to NIH, may request presubmission review of the records involved to determine whether if the records are submitted NIH will or will not make part or all of the records available upon request under the Freedom of Information Act.

VI–E–4–b. A request for presubmission review should be submitted to ORDA along with the records involved. These records must be clearly marked as being the property of the institution on loan to NIH solely for the purpose of making a determination under the Freedom of Information Act. The ORDA will then seek a determination from the HHS Freedom of Information Officer, the responsible official under HHS regulations (45 CFR Part 5) as to whether the records involved (or some portion) are or are not available to members of the Public under the Freedom of Information Act. Pending such a determination the records will be kept separate from ORDA files, will be considered records of the institution and not ORDA, and will not be received as part of ORDA files. No copies will be made of the records.

VI–E–4–c. The ORDA will inform the institution of the HHS Freedom of Information Officer's determination and follow the institution's instructions as to whether some or all of the records involved are to be returned to the institution or to become a part of ORDA files. If the institution instructs ORDA to return the records, no copies or summaries of the records will be made or retained by HHS, NIH, or ORDA.

VI–E–4–d. The HHS Freedom of Information Officer's determination will represent that official's judgement at the time of the determination as to whether the records involved (or some portion) would be exempt from disclosure under the Freedom of Information Act if at the time of the determination the records were in ORDA files at a request were received for them under the Act.

Appendix A—Exemptions Under Section III–D–4

Section III–D–4 states that exempt from these Guidelines are "certain specified recombinant DNA molecules that consist entirely of DNA segments from different species that exchange

DNA by known physiological processes though one or more of the segments may be a synthetic equivalent. A list of such exchangers will be prepared and periodically revised by the Director, NIH, with advice of the RAC after appropriate notice and opportunity for public comment (see Section IV–C–1–b–(1)–(c)). Certain classes are exempt as of publication of these revised Guidelines. The list is in Appendix A."

Under Section III–D–4 of these Guidelines are recombinant DNA molecules that are: (1) Composed entirely of DNA segments from one or more of the organisms within a sublist and (2) to be propagated in any of the organisms within a sublist. (Classification of *Bergey's Manual of Determinative Bacteriology*, 8th edition. R. E. Buchanan and N. E. Gibbons, editors. Williams and Wilkins Company: Baltimore, 1974.)

Although these experiments are exempt, it is recommended that they be performed at the appropriate biosafety level for the host or recombinant organism (for biosafety levels see *Biosafety in Microbiological and Biomedical Laboratories*, 1st Edition (March 1984), U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, Atlanta, Georgia 30333, and National Institutes of Health, Bethesda, Maryland 20892).

Sublist A

1. Genus *Escherichia*
2. Genus *Shigella*
3. Genus *Salmonella* (including *Arizona*)
4. Genus *Enterobacter*
5. Genus *Citrobacter* (including *Levinea*)
6. Genus *Klebsiella*
7. Genus *Erwinia*
8. *Pseudomonas aeruginosa, Pseudomonas Putida* and *Pseudomonas fluorescens*
9. *Serratia marcescens*
10. *Yersinia enterocolitica*

Sublist B

1. *Bacillus subtilis*
2. *Bacillus licheniformis*
3. *Bacillus pumilus*
4. *Bacillus globigii*
5. *Bacillus niger*
6. *Bacillus nato*
7. *Bacillus amyloliquefaciens*
8. *Bacillus aterrimus*

Sublist C

1. *Streptomyces aureofaciens*
2. *Streptomyces rimosus*
3. *Streptomyces coelicolor*

Sublist D

1. *Streptomyces griseus*
2. *Streptomyces cyaneus*
3. *Streptomyces venezuelae*

Sublist E

1. One way transfer of *Streptococcus mutans* or *Streptococcus lactis* DNA into *Streptococcus sanguis.*

Sublist F

1. *Streptococcus sanguis*
2. *Streptococcus pneumoniae*
3. *Streptococcus faecalis*
4. *Streptococcus pyogenes*
5. *Streptococcus mutans*

APPENDIX B—CLASIFICATION OF MICROORGANISMS ON THE BASIS OF HAZARD

Appendix B–I—Classification of Etiologic Agents

The original reference for this classification was the publication *Classification of Etiological Agents on the Basis of Hazard*, 4th edition, July 1974, U.S. Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control, Office of Biosafety, Atlanta, Georgia 30333. For the purposes of these Guidelines, this list has been revised by the NIH [1].

Appendix B–I–A. Class 1 Agents. All bacterial, parasitic, fungal, viral, rickettsial, and chlamydial agents not included in higher classes.

Appendix B–I–B. Class 2 Agents.

Appendix B–I–B–1. Bacterial Agents.

Acinetobacter calcoaceticus
Actinobacillus-all species
Aeromonas hydrophila
Arizona hinshawii-all serotypes
Bacillus anthracis
Bordetella-all species
Borrelia recurrentis, B. vincenti
Campylobacter fetus
Campylobacter jejuni
Chlamydia psittaci
Chlamydia trachomatis
Clostridium botulinum, Cl. chauvoei, Cl. haemolyticum, Cl. histolyticum, Cl. novyi, Cl. septicum, Cl. tetani
Corynebacterium diphtheriae, C. equi, C. haemolyticum, C. pseudotuberculosis, C. pyogenes, C. renale
Edwardsiella tarda
Erysipelothrix insidiosa
Escherichia coli-all enteropathogenic, enterotoxigenic, enteroinvasive and strains bearing K1 antigen
Haemophilus ducreyi, H. influenzae
Klebsiella-all species and all serotypes
Legionella pneumophila
Leptospira interrogans-all serotypes
Listeria-all species
Moraxella-all species
Mycobacteria-all species except those listed in Class 3
Mycoplasma-all species except *Mycoplasma mycoides* and *Mycoplasma agalactiae*, which are in Class 5
Neisseria gonorrhoeae, N. meningitidis
Pasteurella-all species except those listed in Class 3
Salmonella-all species and all serotypes
Shigella-all species and all serotypes
Sphaerophorus necrophorus
Staphylococcus aureus
Streptobacillus moniliformis
Streptococcus pneumoniae
Streptococcus pyogenes
Treponema carateum, T. pallidum, and T. pertenue
Vibrio cholerae
Vibrio parahemolyticus
Yersinia enterocolitica

Appendix B–I–B–2. Fungal Agents.

Actinomycetes (including *Nocardia* species, *Actinomyces* species, and *Arachnia propionica*) [2]
Blastomyces dermatitidis
Cryptococcus neoformans
Paracoccidioides braziliensis

Appendix B–I–B–3. Parasitic Agents.

Endamoeba histolytica
Leishmania sp.
Naegleria gruberi
Schistosoma mansoni
Toxoplasma gondii
Toxocara canis
Trichinella spiralis
Trypanosoma cruzi

Appendix B–I–B–4. Viral, Rickettsial, and Chlamydial Agents.

Adenoviruses—human—all types
Cache Valley virus
Coxsackie A and B viruses
Cytomegaloviruses
Echoviruses—all types
Encephalomyocarditis virus (EMC)
Flanders virus
Hart Park virus
Hepatitus—associated antigen material
Herpes viruses-except *Herpesvirus simiae (Monkey B virus)* which is in Class 4
Corona viruses
Influenza viruses—all types except A/PR8/34, which is in Class 1
Langat virus
Lymphogranuloma venereum agent
Measles virus
Mumps virus
Parainfluenza virus—all types except Parainfluenza virus 3, SF4 strain, which is in Class 1
Polioviruses—all types, wild and attenuated
Poxviruses—all types except *Alastrim, Smallpox*, and *Whitepox* which are Class 5 and *Monkey pox* which depending on experiments is in Class 3 or Class 4
Rabies virus—all strains except *Rabies street virus* which should be classified in Class 3
Reoviruses—all types
Respiratory syncytial virus
Rhinoviruses—all types
Rubella virus
Simian viruses—all types except *Herpesvirus simiae (Monkey B virus)* and *Marburg virus* which are in Class 4
Sindbis virus
Tensaw virus
Turlock virus
Vaccinia virus
Varicella virus
Vesicular stomatitis virus [3]

Vole rickettsia
Yellow fever virus, 17D vaccine strain

Appendix B–I–C. Class 3 Agents.

Appendix B–I–C–1. Bacterial Agents.

Bartonella—all species
Brucella—all species
Francisella tularensis
Mycobacterium avium, M. bovis, M. tuberculosis
Pasteurella multocide type *B* ("buffalo" and other foreign virulent strains) [3]
Pseudomonas mallei [3]
Pseudomonas pseudomallei [3]
Yersinia pestis

Appendix B–I–C–2. Fungal Agents.

Coccidioides immitis
Histoplasma capsulatum
Histoplasma capsulatum var. *duboisii*

Appendix B–I–C–3. Parasitic Agents.

None.

Appendix B–I–C–4. Viral, Rickettsial, and Chlamydial Agents.

Monkey pox, when used *in vitro* [4]
Arboviruses-all strains except those in Class 2 and 4 (*Arboviruses* indigenous to the United States are in Class 3 except those listed in Class 2. *West Nile* and *Semliki Forest* viruses may be classified up or down depending on the conditions of use and geographical location of the laboratory.)
Dengue virus, when used for transmission or animal inoculation experiments
Lymphocytic choriomeningitis virus (LCM)
Rickettsia—all species except *Vole rickettsia* when used for transmission or animal inoculation experiments
Yellow fever virus—wild, when used *in vitro*

Appendix B–I–D. Class 4 Agents.

Appendix B–I–D–1. Bacterial Agents.

None.

Appendix B–I–D–2. Fungal Agents.

None.

Appendix B–I–D–3. Parasitic Agents.

None.

Appendix B–I–D–4. Viral, Rickettsial, and Chlamydial Agents.

Ebola fever virus
Monkey pox, when used for transmission or animal inoculation experiments [4]
Hemorrhagic fever agents, including *Crimean hemorrhagic fever, (Congo), Junin*, and *Machupo* viruses, and others as yet undefined
Herpesvirus simiae (Monkey B virus)
Lassa virus
Marburg virus
Tick-borne encephalitis virus complex, including *Russian spring-summer encephalitis, Kyasanur forest disease, Omsk hemorrhagic fever*, and *Central European encephalitis viruses*
Venezuelan equine encephalitis virus, epidemic strains, when used for transmission or animal inoculation experiments
Yellow fever virus—wild, when used for transmission or animal inoculation experiments

Appendix B–II—Classification of Oncogenic Viruses on the Basis of Potential Hazard [5]

Appendix B–II–A. Low-Risk Oncogenic Viruses.

Rous sarcoma
SV–40
CELO
Ad7–SV40
Polyoma
Bovine papilloma
Rat mammary tumor
Avian leukosis
Murine leukemia
Murine sarcoma
Mouse mammary tumor
Rat leukemia
Hamster leukemia
Bovine leukemia
Dog sarcoma
Mason-Pfizer monkey virus
Marek's
Guinea pig herpes
Lucke (Frog)
Adenovirus
Shope fibroma
Shope papilloma

Appendix B–II–B. Moderate-Risk Oncogenic Viruses.

Ad2–SV40
FeLV
HV Saimiri
EBV
SSV–1
GaLV
HV ateles
Yaba
FeSV

Appendix B–III—Class 5 Agents

Appendix B–III–A. Animal Disease Organisms Which are Forbidden Entry into the United States by Law.

Foot and mouth disease virus.

Appendix B–III–B. Animal Disease Organisms and Vectors Which are Forbidden Entry into the United States by USDA Policy.

African horse sickness virus
African swine fever virus
Besnoitia besnoiti
Borna disease virus
Bovine infectious petechial fever
Camel pox virus
Ephemeral fever virus
Fowl plague virus
Goat pox virus
Hog cholera virus
Louping ill virus
Lumpy skin disease virus
Nairobi sheep disease virus
Newcastle disease virus (Asiatic strains)
Mycoplasma mycoides (contagious bovine pleuropneumonia)
Mycoplasma agalactiae (contagious agalactia of sheep)
Rickettsia ruminatium (heart water)
Rift valley fever virus
Rhinderpest virus
Sheep pox virus
Swine vesicular disease virus
Teschen disease virus
Trypanosoma vivax (Nagana)
Trypanosoma evansi
Theileria parva (East Coast fever)
Theileria annulata
Theileria lawrencei
Theileria bovis
Theileria hirci
Vesicular exanthema virus
Wesselsbron disease virus
Zyonema

Appendix B–III–C. Organisms Which may not be Studied in the United States Except at Specified Facilities.

Small pox [4]
Alastrim [4]
White pox [4]

Appendix B–IV—Footnotes and References of Appendix B.

1. The original reference for this classification was the publication *Classification of Etiologic Agents on the Basis of Hazard*, 4th edition, July 1974, U.S. Department of Health, Education, and Welfare, Public Health Service, Center for Disease Control, Office of Biosafety, Atlanta, Georgia 30333. For the purposes of these Guidelines, this list has been revised by the NIH.

2. Since the publication of the classification in 1974 [1], the *Actinomycetes* have been reclassified as bacterial rather than fungal agents.

3. A USDA permit, required for import and interstate transport of pathogens, may be obtained from the Animal and Plant Health Inspection Service, USDA, Federal Building, Hyattsville, MD 20782.

4. All activities, including storage of variola and whitepox, are restricted to the single national facility [World Health Organization (WHO) Collaborating Center for Smallpox Research, Centers for Disease Control, in Atlanta].

5. *National Cancer Institute Safety Standards for Research Involving Oncogenic Viruses* (October 1974). U.S. Department of Health, Education, and Welfare Publication No. (NIH) 75–790.

6. U.S. Department of Agriculture, Animal and Plant Health Inspection Service.

Appendix C—Exemptions Under Section III–D–5

Section III–D–5 states that exempt from these Guidelines are "Other classes of recombinant DNA molecules if the Director, NIH, with advice of the RAC, after appropriate notice and opportunity for public comment finds that they do not present a significant risk to health or the environment (see Section IV–C–1–b–(1)–(c)). Certain classes are exempt as of publication of these revised Guidelines."

The following classes of experiments are exempt under Section III–D–5 of the Guidelines:

Appendix C–I—Recombinant DNAs in Tissue Culture.

Recombinant DNA molecules containing less than one-half of any eukaryotic genome (all viruses from a single Family (4) being considered identical (5)) that are propagated and maintained in cells in tissue culture are exempt from these Guidelines with the exceptions listed below.

Exceptions. Experiments described in Section III–A which require specific RAC review and NIH approval before initiation of the experiment.

Experiments involving DNA from Class 3, 4, or 5 organisms [1] or cells known to be infected with these agents.

Experiments involving the deliberate introduction of genes coding for the biosynthesis of molecules toxic for vertebrates (see Appendix F).

Appendix C–II—Experiments Involving E. coli K–12 Host-Vector Systems

Experiments which use *E. coli* K–12 host-vector systems, with the exception of those experiments listed below, are exempt from these Guidelines provided that: (i) the *E. coli* host shall not contain conjugation proficient plasmids or generalized transducing phages; and (ii) lambda or lambdoid or Ff bacteriophages or nonconjugative plasmids [2] shall be used as vectors. However, experiments involving the insertion into *E. coli* K–12 of DNA from prokaryotes that exchange genetic information [3] with *E. coli* may be performed with any *E. coli* K–12 vector (e.g., conjugative plasmid). When a nonconjugative vector is used, the *E. coli* K–12 host may contain conjugation-proficient plasmids either autonomous or integrated, or generalized transducing phages.

For these exempt laboratory experiments, BL1 physical containment conditions are recommended.

For large-scale (LS) fermentation experiments BL1–LS physical containment conditions are recommended. However, following review by the IBC of appropriate data for a particular host-vector system, some latitude in the application of BL1–LS requirements as outlined in Appendix K–II–A through K–II–F is permitted.

Exceptions. Experiments described in Section III–A which require specific RAC review and NIH approval before initiation of the experiment.

Experiments involving DNA from Class 3, 4, or 5 organisms [1] or from cells known to be infected with these agents may be conducted under containment conditions specified in Section III–B–2 with prior IBC review and approval.

Large-scale experiments (e.g., more than 10 liters of culture) require prior IBC review and approval (see Section III–B–5).

Experiments involving the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates (see Appendix F).

Appendix C–III—Experiments Involving Saccharomyces Host-Vector Systems

Experiments which use *Saccharomyces cerevisiae* host-vector systems, with the exception of experiments listed below, are exempt from these Guidelines.

Experiments which use *Saccharomyces uvarum* host-vector systems, with the exception of experiments listed below, are exempt from these Guidelines.

For these exempt laboratory experiments, BL1 physical containment conditions are recommended.

For large-scale fermentation experiments BL1–LS physical containment conditions are recommended. However, following review by the IBC of appropriate data for a particular host-vector system some latitude in the application of BL1–LS requirements as outlined in Appendix K–II–A through K–II–F is permitted.

Exceptions. Experiments described in Section III–A which require specific RAC review and NIH approval before initiation of the experiment.

Experiments involving Class 3, 4, or 5 organisms [1] or cells knowns to be infected with these agents may be conducted under containment conditions specified in Section III–B–2 with prior IBC review and approval.

Large-scale experiments (e.g., more than 10 liters of culture) require prior IBC review and approval (see Section III–B–5).

Experiments involving the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates (see Appendix F).

Appendix C–IV—Experiments Involving Bacillus subtilis Host-Vector Systems

Any asporogenic *Bacillus subtilis* strain which does not revert to a sporeformer with a frequency greater than 10^{-7} can be used for cloning DNA with the exception of those experiments listed below.

For these exempt laboratory experiments, BL1 physical containment conditions are recommended.

For large-scale fermentation experiments BL1–LS physical containment conditions are recommended. However, following review by the IBC of appropriate data for a particular host-vector system, some latitude in the application of BL1–LS requirements as outlined in Appendix K–II–A through K–II–F is permitted.

Exceptions. Experiments described in Section III–A which require specific RAC review and approval before initiation of the experiment.

Experiments involving Class 3, 4, or 5 organisms [1] or cells known to be infected with these agents may be conducted under containment conditions specified by Section III–B–2 with prior IBC review and approval.

Large-scale experiments (e.g., more than 10 liters of culture) require prior IBC review and approval (see Section III–B–5).

Experiments involving the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates (see Appendix F).

Appendix C–V—Extrachromosomal Elements of Gram Positive Organisms

Recombinant DNA molecules derived entirely from extrachromosomal elements of the organisms listed below (including shuttle vectors constructed from vectors described in Appendix C), propagated and maintained in organisms listed below are exempt from these Guidelines.

Bacillus subtilis
Bacillus pumilus
Bacillus licheniformis
Bacillus thuringiensis
Bacillus cereus
Bacillus amyloliquefaciens
Bacillus brevis
Bacillus natto
Bacillus niger
Bacillus aterrimus
Bacillus amylosacchariticus
Bacillus anthracis
Bacillus globigii
Bacillus megaterium
Staphylococcus aureus
Staphylococcus epidermidis
Staphylococcus carnosus
Clostridium acetobutylicum
Pediococcus damnosus
Pediococcus pentosaceus
Pediococcus acidilactici
Lactobacillus casei
Listeria grayi
Listeria murrayi
Listeria monocytogenes
Streptococcus pyogenes
Streptococcus agalactiae
Streptococcus sanguis
Streptococcus salivarious
Streptococcus cremoris
Streptococcus pneumoniae
Streptococcus avium
Streptococcus faecalis
Streptococcus anginosus
Streptococcus sobrinus
Streptococcus lactis
Streptococcus mutans
Streptococcus equisimilis
Streptococcus thermophylus

Streptococcus milleri
Streptococcus durans
Streptococcus mitior
Streptococcus ferus

Exceptions. Experiments described in Section III–A which require specific RAC review and NIH approval before initiation of the experiment.

Large-scale experiments (e.g., more than 10 liters of culture) require prior IBC review and approval (see Section III–B–5).

Experiments involving the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates (see Appendix F).

Appendix C–VI—Footnotes and References of Appendix C

1. The original reference to organisms as Class 1, 2, 3, 4, or 5 refers to the classification in the publication *Classification of Etiologic Agents on the Basis of Hazard*, 4th Edition, July 1974; U.S. Department of Health, Education and Welfare, Public Health Service, Centers for Disease Control, Office of Biosafety, Atlanta, Georgia 30333.

The Director, NIH, with advice of the Recombinant DNA Advisory Committee, may revise the classification for the purposes of these Guidelines (see Section IV–C–1–b–(2)–(d)). The revised list of organisms in each class is reprinted in Appendix B to these Guidelines.

2. A subset of non-conjugative plasmid vectors are also poorly mobilizable (e.g., pBR322, pBR313). Where practical, these vectors should be employed.

3. Defined as observable under optimal laboratory conditions by transformation, transduction, phage infection, and/or conjugation with transfer of phage, plasmid, and/or chromosomal genetic information. Note that this definition of exchange may be less stringent than that applied to exempt organisms under Section III–D–4.

4. As classified in the Third Report of the International Committee on Taxonomy of Viruses: Classification and Nomenclature of Viruses, R.E.F. Matthews, Ed. Intervirology 12 (129–296) 1979.

5. i.e., the total of all genomes within a Family shall not exceed one-half of the genome.

Appendix D—Actions Taken Under the Guidelines

As noted in the subsections of Section IV–C–1–b–(1), the Director, NIH, may take certain actions with regard to the Guidelines after the issues have been considered by the RAC. Some of the actions taken to date include the following:

Appendix D–I

Permission is granted to clone foot and mouth disease virus in the EK1 host-vector system consisting of *E. coli* K–12 and the vector pBR322, all work to be done at the Plum Island Animal Disease Center.

Appendix D–II

Certain specified clones derived from segments of the foot and mouth disease virus may be transferred from Plum Island Animal Disease Center to the facilities of Genentech, Inc., of South San Francisco, California. Further development of the clones at Genentech has been approved under BL1+EK1 conditions.

Appendix D–III

The Rd strain of *Hemophilus influenzae* can be used as a host for the propagation of the cloned Tn 10 tet R gene derived from *E. coli* K–12 employing the non-conjugative *Hemophilus* plasmid, pRSF0885, under BL1 conditions.

Appendix D–IV

Permission is granted to clone certain subgenomic segments of foot and mouth disease virus in HV1 *Bacillus subtilis* and *Saccharomyces cerevisiae* host-vector systems under BL1 conditions at Genentech, Inc., South San Francisco, California.

Appendix D–V

Permission is granted to Dr. Ronald Davis of Stanford University to field test corn plants modified by recombinant DNA techniques under specified containment conditions.

Appendix D–VI

Permission is granted to clone in *E. coli* K–12 under BL1 physical containment conditions subgenomic segments of rift valley fever virus subject to conditions which have been set forth by the RAC.

Appendix D–VII

Attenuated laboratory strains of *Salmonella typhimurium* may be used under BL1 physical containment conditions to screen for the *Saccharomyces cerevisiae* pseudouridine synthetase gene. The plasmid YEp13 will be employed as the vector.

Appendix D–VIII

Permission is granted to transfer certain clones of subgenomic segments of foot and mouth disease virus from Plum Island Animal Disease Center to the laboratories of Molecular Genetics, Inc., Minnetonka, Minnesota, and to work with these clones under BL1 containment conditions. Approval is contingent upon review of data on infectivity testing of the clones by a working group of the RAC.

Appendix D–IX

Permission is granted to Dr. John Sanford of Cornell University to field test tomato and tobacco plants transformed with bacterial (*E. coli* K–12) and yeast DNA using pollen as a vector.

Appendix D–X

Permission is granted to Drs. Steven Lindow and Nickolas Panopoulos of the University of California, Berkeley, to release under specified conditions *Pseudomonas syringae* pv. *syringae* and *Erwinia herbicola* carrying *in vitro* generated deletions of all or part of the genes involved in ice nucleation.

Appendix D–XI

Agracetus of Middleton, Wisconsin, may field test under specified conditions disease resistant tobacco plants prepared by recombinant DNA techniques.

Appendix E—Certified Host-Vector Systems

(See also Appendix I)

While many experiments using *E. coli* K–12, *Saccharomyces cerevisiae* and *Bacillus subtilis* are currently exempt from the Guidelines under Section III–D–5, some derivatives of these host-vector systems were previously classified as HV1 or HV2. A listing of those systems follows:

Appendix E–I—Bacillus subtilis

HV1. The following plasmids are accepted as the vector components of certified *B. subtilis* HV1 systems: pUB110, pC194, pS194, pSA2100, pE194, pT127, pUB112, pC221, pC223, and pAB124. *B. subtilis* strains RUB 331 and BGSC 1S53 have been certified as the host component of HV1 systems based on these plasmids.

HV2. The asporogenic mutant derivative of *Bacillus subtilis*, ASB 298, with the following plasmids as the vector component: pUB110, pC194, pS194, pSA2100, pE194, pT127, pUB112, pC221, pC223, and pAB124.

Appendix E–II—Saccharomyces cerevisiae

HV2. The following sterile strains of *Saccharomyces cerevisiae*, all of which have the ste–VC9 mutation, SHY1, SHY2, SHY3, and SHY4. The following plasmids are certified for use: YIp1, YEp2, YEp4, YIp5, YEp6, YRp7, YEp20, YEp21, YEp24, YIp25, YIp26, YIp27, YIp28, YIp29, YIp30, YIp31, YIp32, and YIp33.

Appendix E–III—Escherichia coli

EK2 Plasmid Systems. The *E. coli* K–12 strain chi–1776. The following

plasmids are certified for use: pSC101, pMB9, pBR313, pBR322, pDH24, pBR325, pBR327, pGL101, and pHB1. The following *E. coli/S. cerevisiae* hybrid plasmids are certified as EK2 vectors when used in *E. coli* chi–1776 or in the sterile yeast strains, SHY1, SHY2, SHY3, and SHY4: YIpl, YEp2, YEp4, YIp5, YEp6, YRp7, YEp20, YEp21, YEp24, YIp25, YIp26, YIp27, YIp28, YIp29, YIp30, YIp31, YIp32, and YIp33.

EK2 Bacteriophage Systems. The following are certified EK2 systems based on bacteriophage lambda:

Vector	*Host*
λgt*WES*·λB′	DP50*sup*F
λgt *WES*λB★	DP50*sup*F
λgt ZJ *vir*·λB′	*E. coli* K–12
λgtALO·λB	DP50*sup*F
Charon 3A	DP50 or DP50*sup*F
Charon 4A	DP50 or DP50*sup*F
Charon 16A	DP50 or DP50*sup*F
Charon 21A	DP50*sup*F
Charon 23A	DP50 or DP50*sup*F
Charon 24A	DP50 or DP50*sup*F

E. coli K–12 strains chi–2447 and chi–2281 are certified for use with lambda vectors that are certified for use with strain DP50 or DP50*sup*F provided that the su$^-$ strain not be used as a propagation host.

Appendix E–IV—Neurospora crassa

HV1. The following specified strains of *Neurospora crassa* which have been modified to prevent aerial dispersion:

Inl (inositolless) strains 37102, 37401, 46316, 64001, and 89601.

Csp–1 strain UCLA37 and csp–2 strains FS 590, UCLA101 (these are conidial separation mutants).

Eas strain UCLA191 (an "easily wettable" mutant).

Appendix E–V—Streptomyces

HV1. The following *Streptomyces* species: *Streptomyces coelicolor, S. lividans, S. parvulus,* and *S. griseus.* The following are accepted as vector components of certified *Streptomyces* HV1 systems: *Streptomyces* plasmids SCP2, SLP1.2, pIJ101, actinophage phi C31, and their derivatives.

Appendix E–VI—Pseudomonas putida

HV1. Pseudomonas putida strains KT2440 with plasmid vectors pKT262, pKT263, and pKT264.

Appendix F—Containment Conditions for Cloning of Genes Coding for the Biosynthesis of Molecules Toxic for Vertebrates

Appendix F–I—General Information.

Appendix F specifies the containment to be used for the deliberate cloning of genes coding for the biosynthesis of molecules toxic for vertebrates. The cloning of genes coding for molecules toxic for vertebrates that have an LD_{50} of less than 100 nanograms per killogram body weight (e.g., microbial toxins such as the botulinum toxins, tetanus toxin, diphtheria toxin, *Shigella dysenteriae* neurotoxin) is covered under Section III–A–1 of the Guidelines and requires RAC review and NIH and IBC approval before initiation. No specific restrictions shall apply to the cloning of genes if the protein specified by the gene has an LD_{50} of 100 micrograms or more per kilogram of body weight. Experiments involving genes coding for toxic molecules with an LD_{50} of 100 micrograms or less per kilogram body weight shall be registered with ORDA prior to initiating the experiments. A list of toxic molecules classified as to LD_{50} is available from ORDA. Testing precedures for determining toxicity of toxic molecules not on the list are available from ORDA. The results of such tests shall be forwarded to ORDA which will consult with the RAC Working Group on Toxins prior to inclusion of the molecules on the list (see Section IV–C–1–b–(2)–(e)).

Appendix F–II—Containment Conditions for Cloning of Toxic Molecule Genes in E. coli K–12

Appendix F–II–A. Cloning of genes coding for molecules toxic for vertebrates that have an LD_{50} in the range of 100 nanograms to 1000 nanograms per kilogram body weight (e.g., abrin, *Clostridium perfringens* epsilon toxin) may proceed under BL2+EK2 or BL3+EK1 containment conditions.

Appendix F–II–B. Cloning of genes for the biosynthesis of molecules toxic for vertebrates with an LD_{50} in the range of 1 microgram to 100 micrograms per kilogram body weight may proceed under BL1+EK1 containment conditions (e.g., *Staphylococcus aureus* alpha toxin, *Staphylococcus aureus* beta toxin, ricin, *Pseudomonas aeruginosa* exotoxin A, *Bordatella pertussis* toxin, the lethal factor of *Bacillus anthracis,* the *Pasteurella pestis* murine toxins, the oxygen-labile hemolysins such as streptolysin O, and certain neurotoxins present in snake venoms and other venoms).

Appendix F–II–C. Some enterotoxins are substantially more toxic when administered enterally than parenterally. The following enterotoxins shall be subject to BL1+EK1 containment conditions: cholera toxin, the heat labile toxins of *E. coli, Klebsiella,* and other related proteins that may be identified by neutralization with an antiserum monospecific for cholera toxin, and the heat stable toxins of *E. coli* and of *Yersinia enterocolitica.*

Appendix F–III—Containment Conditions for Cloning of Toxic Molecule Genes in Organisms Other Than E. coli K–12

Requests involving the cloning of genes coding for molecules toxic for vertebrates in host-vector systems other than *E. coli* K–12 will be evaluated by ORDA which will consult with the Working Group on Toxins (see Section IV–C–1–b–(3)–(f)).

Appendix F–IV—Specific Approvals

Appendix F–IV–A. Permission is granted to clone the Exotoxin A gene of *Pseudomonas aeruginosa* under BL1 conditions in *Pseudomonas aeruginosa* and in *Pseudomonas putida.*

Appendix F–IV–B. The pyrogenic exotoxin type A (Tox A) gene of *Staphylococcus aureus* may be cloned in an HV2 *Bacillus subtilis* host-vector system under BL3 containment conditions.

Appendix F–IV–C. Restriction fragments of *Corynephage Beta* carrying the structural gene for diphtheria toxin may be safely cloned in *e. coli* K–12 in high containment Building 550 at the Frederick Cancer Research Facility. Laboratory practices and containment equipment are to be specified by the IBC. If the investigators wish to proceed with the experiments, a prior review will be conducted to advise NIH whether the proposal has sufficient scientific merit to justify the use of the NIH BL4 facility.

Appendix F–IV–D. The genes coding for the *Staphylococcus aureus* determinants, A, B, and F, which may be implicated in toxic shock syndrome may be cloned in *E. coli* K–12 under BL2+EK1 conditions. The *Staphylococcus aureus* strain used as the donor is to be alpha toxin minus. It is suggested that, if possible, the donor *Staphylococcus aureus* strain should lack other toxins with LD_{50}s in the range of one microgram per kilogram body weight such as the exfoliative toxin.

Appendix F–IV–E. Fragments F–1, F–2, and F–3 of the diphtheria toxin gene (tox) may be cloned in *E. coli* K–12 under BL1+EK1 containment conditions and may be cloned in *Bacillus subtilis* host-vector systems under BL1 containment conditions. Fragment F–1 and fragment F–2 both contain: (i) Some or all of the transcriptional control elements of *tox;* (ii) the signal peptide; and (iii) fragment A (the center responsible for ADP-ribosylation of elongation factor 2). Fragment F–3 codes for most of the non-toxic fragment B of the toxin and contains no sequences coding for any portion of the enzymatically active fragment A moiety.

Appendix F–IV–F. The gene(s) coding for a toxin (designated LT-like) isolated from *E. coli* which is similar to the *E. coli* heat labile enterotoxin (LT) with respect to its activities and mode of action but is not neutralized by antibodies against cholera enterotoxin or against LT from human or porcine *E. coli* strains, and sequences homologous to the *E. coli* LT-like toxin gene may be cloned under BL1+EK1 conditions.

Appendix F–IV–G. Genes from *Vibrio fluvialis, Vibrio mimicus,* and non 0–1 *Vibrio cholerae,* specifying virulence factors for animals, may be cloned under BL1+EK1 conditions. The virulence factors to be cloned will be selected by testing fluid induction in suckling mice and Y–1 mouse adrenal cells.

Appendix F–IV–H. The intact structural gene(s) of the Shiga-like toxin from bacterial species classified in the families *Enterobacteriaceae* or *Vibrionaceae* including *Campylobacter* species may be cloned in *E. coli* K-12 under BL3+EK1 containment conditions.

E. coli host-vector systems expressing the Shiga-like toxin gene product may be moved from BL3+EK1 to BL2+EK1 containment conditions provided that: (1) The amount of toxin produced by the modified host-vector systems be no greater than that produced by the positive control strain *Shigella dysenteriae* 60R, grown and measured under optimal conditions; and (2) the cloning vehicle is to be an EK1 vector preferably belonging to the class of poorly mobilizable plasmids such as pBR322, pBR328, and pBR325.

Nontoxinogenic fragments of the Shiga-like toxin structural gene(s) may be moved from BL3+EK1 to BL2+EK1 containment conditions or such nontoxic fragments may be directly cloned in *E. coli* K–12 under BL2+EK1 conditions provided that the *E. coli* host-vector systems containing the fragments do not contain overlapping fragments which together would encompass the Shigalike toxin structural gene(s).

Appendix F–IV–I. A hybrid gene in which the gene coding for the melanocyte stimulating hormone (MSH) is joined to a segment of the gene encoding diphtheria toxin may be safely propagated in *E. coli* K–12 under BL4 containment in high containment building 550 at the Frederick Cancer Research Facility. If the investigators wish to proceed with the experiment, a prior review will be conducted to advise NIH whether the proposal has sufficient scientific merit to justify the use of the NIH BL4 facility. Before any of the strains may be removed from the BL4 facility, data on their safety shall be evaluated by the Working Group in Toxins and the working group recommendation shall be acted upon by NIH.

Appendix F–IV–J. The gene segment encoding the A subunit of chlolera toxin of *Vibrio cholerae* may be joined to the transposons Tn5 and Tn5–131 and the A-subunit::Tn5–131 hybrid gene cloned in *E. coli* K–12 and *V. cholerae* under BL1 containment conditions.

Appendix F–IV–K. A hybrid gene in which the gene coding for interleukin 2 (IL–2) is joined to a specific segment of the gene encoding diphtheria toxin may be propagated in *E. coli* K–12 host-vector systems under BL2 containment plus BL3 practices, with the use of poorly mobilizable plasmid vectors such as EK2 certified plasmids.

Appendix G—Physical Containment

Appendix G–I—Standard Practices and Training

The first principle of containment is a strict adherence to good microbiological practices [1–10]. Consequently, all personnel directly or indirectly involved in experiments on recombinant DNAs must receive adequate instruction (see Sections IV–B–1–e and IV–B–5–d). This shall, as a minimum, include instructions in aseptic techniques and in the biology of the organisms used in the experiments so that the potential biohazards can be understood and appreciated.

Any research group working with agents with a known or potential biohazard shall have an emergency plan which describes the procedures to be followed if an accident contaminates personnel or the environment. The PI must ensure that everyone in the laboratory is familiar with both the potential hazards of the work and the emergency plan (see Sections IV–B–3–d and IV–B–5–e). If a research group is working with a known pathogen for which there is an effective vaccine, the vaccine should be made available to all workers. Where serological monitoring is clearly appropriate, it shall be provided (see Section IV–B–1–f).

The "Laboratory Safety Monograph" and *Biosafety in Microbiological and Biomedical Laboratories* [2] booklets describe practices, equipment, and facilities in detail.

Appendix G–II—Physical Containment Levels

The objective of physical containment is to confine organisms containing recombinant DNA molecules and thus to reduce the potential for exposure of the laboratory worker, persons outside of the laboratory, and the environment to organisms containing recombinant DNA molecules. Physical containment is achieved through the use of laboratory practices, containment equipment, and special laboratory design. Emphasis is placed on primary means of physical containment which are provided by laboratory practices and containment equipment. Special laboratory design provides a secondary means of protection against the accidental release of organisms outside the laboratory or to the environment. Special laboratory design is used primarily in facilities in which experiments of moderate to high potential hazards are performed.

Combinations of laboratory practices, containment equipment, and special laboratory design can be made to achieve different levels of physical containment. Four levels of physical containment, which are designated as BL1, BL2, BL3, and BL4, are described. It should be emphasized that the descriptions and assignments of physical containment detailed below are based on existing approaches to containment of pathogenic organisms [2]. The National Cancer Institute describes three levels for research on oncogenic viruses which roughly correspond to our BL2, BL3, and BL4 level [3].

It is recognized that several different combinations of laboratory practices, containment equipment, and special laboratory design may be appropriate for containment of specific research activities. The Guidelines, therefore, allow alternative selections of primary containment equipment within facilities that have been designed to provide BL3 and BL4 levels of physical containment. The selection of alternative methods of primary containment is dependent, however, on the level of biological containment provided by the host-vector system used in the experiment. Consideration will also be given by the Director, NIH, with the advice of the RAC to other combinations which achieve an equivalent level of containment (see Section IV–C–1–b–(2)–(b)).

Appendix G–II–A—Biosafety Level 1 (BL1) [13]

Appendix G–II–A–1. Standard Microbiological Practices.

Appendix G–II–A–1–a. Access to the laboratory is limited or restricted at the discretion of the laboratory director when experiments are in progress.

Appendix G–II–A–1–b. Work surfaces are decontaminated once a day and after any spill of viable material.

Appendix G–II–A–1–c. All contaminated liquid or solid wastes are decontaminated before disposal.

Appendix G–II–A–1–d. Mechanical pipetting devices are used; mouth pipetting is prohibited.

Appendix G–II–A–1–e. Eating, drinking, smoking, and applying cosmetics are not permitted in the work area. Food may be stored in cabinets or refrigerators designated and used for this purpose only.

Appendix G–II–A–1–f. Persons wash their hands after they handle materials involving organisms containing recombinant DNA molecules, and animals, and before leaving the laboratory.

Appendix G–II–A–1–g. All procedures are performed carefully to minimize the creation of aerosols.

Appendix G–II–A–1–h. It is recommended that laboratory coats, gowns, or uniforms be worn to prevent contamination or soiling of street clothes.

Appendix G–II–A–2—Special Practices

Appendix G–II–A–2–a. Contaminated materials that are to be decontaminated at a site away from the laboratory are placed in a durable leakproof container which is closed before being removed from the laboratory.

Appendix G–II–A–2–b. An insect and rodent control program is in effect.

Appendix G–II–A–3—Containment Equipment

Appendix G–II–A–3–a. Special containment equipment is generally not required for manipulations of agents assigned to Biosafety Level 1.

Appendix G–II–A–4—Laboratory Facilities

Appendix G–II–A–4–a. The laboratory is designed so that it can be easily cleaned.

Appendix G–II–A–4–b. Bench tops are impervious to water and resistant to acids, alkalis, organic solvents, and moderate heat.

Appendix G–II–A–4–c. Laboratory furniture is sturdy. Spaces between benches, cabinets, and equipment are accessible for cleaning.

Appendix G–II–A–4–d. Each laboratory contains a sink for hand-washing.

Appendix G–II–A–4–e. If the laboratory has windows that open, they are fitted with fly screens.

Appendix G–II–B—Biosafety Level 2 (BL2) [14]

Appendix G–II–B–1. Standard Microbiological Practices.

Appendix G–II–B–1–a. Access to the laboratory is limited or restricted by the laboratory director when work with organisms containing recombinant DNA molecules is in progress.

Appendix G–II–B–1–b. Work surfaces are decontaminated at least once a day and after any spill of viable material.

Appendix G–II–B–1–c. All contaminated liquid or solid wastes are decontaminated before disposal.

Appendix G–II–B–1–d. Mechanical pipetting devices are used; mouth pipetting is prohibited.

Appendix G–II–B–1–e. Eating, drinking, smoking, and applying cosmetics are not permitted in the work area. Food may be stored in cabinets or refrigerators designated and used for this purpose only.

Appendix G–II–B–1–f. Persons wash their hands after handling materials involving organisms containing recombinant DNA molecules, and animals, and when they leave the laboratory.

Appendix G–II–B–1–g. All procedures are performed carefully to minimize the creation of aerosols.

Appendix G–II–B–1–h. Experiments of lesser biohazard potential can be carried out concurrently in carefully demarcated areas of the same laboratory.

Appendix G–II–B–2—Special Practices

Appendix G–II–B–2–a. Contaminated materials that are to be decontaminated at a site away from the laboratory are placed in a durable leakproof container which is closed before being removed from the laboratory.

Appendix G–II–B–2–b. The laboratory director limits access to the laboratory. The director has the final responsibility for assessing each circumstance and determining who may enter or work in the laboratory.

Appendix G–II–B–2–c. The laboratory director establishes policies and procedures whereby only persons who have been advised of the potential hazard and meet any specific entry requirements (e.g., immunization) enter the laboratory or animal rooms.

Appendix G–II–B–2–d. When the organisms containing recombinant DNA molecules in use in the laboratory require special provisions for entry (e.g., vaccination), a hazard warning sign incorporating the universal biohazard symbol is posted on the access door to the laboratory work area. The hazard warning sign identifies the agent, lists the name and telephone number of the laboratory director or other responsible person(s), and indicates the special requirement(s) for entering the laboratory.

Appendix G–II–B–2–e. An insect and rodent control program is in effect.

Appendix G–II–B–2–f. Laboratory coats, gowns, smocks, or uniforms are worn while in the laboratory. Before leaving the laboratory for nonlaboratory areas (e.g., cafeteria, library, administrative offices), this protective clothing is removed and left in the laboratory or covered with a clean coat not used in the laboratory.

Appendix G–II–B–2–g. Animals not involved in the work being performed are not permitted in the laboratory.

Appendix G–II–B–2–h. Special care is taken to avoid skin contamination with organisms containing recombinant DNA molecules; gloves should be worn when handling experimental animals and when skin contact with the agent is unavoidable.

Appendix G–II–B–2–i. All wastes from laboratories and animal rooms are appropriately decontaminated before disposal.

Appendix G–II–B–2–j. Hypodermic needles and syringes are used only for parenteral injection and aspiration of fluids from laboratory animals and diaphragm bottles. Only needle-locking syringes or disposable syringe-needle units (i.e., needle is integral to the syringe) are used for the injection or aspiration of fluids containing organisms that contain recombinant DNA molecules. Extreme caution should be used when handling needles and syringes to avoid autoinoculation and the generation of aerosols during use and disposal. Needles should not be bent, sheared, replaced in the needle sheath or guard, or removed from the syringe following use. The needle and syringe should be promptly placed in a puncture-resistant container and decontaminated, preferably by autoclaving, before discard or reuse.

Appendix G–II–B–2–k. Spills and accidents which result in overt exposures to organisms containing recombinant DNA molecules are immediately reported to the laboratory director. Medical evaluation, surveillance, and treatment are provided as appropriate and written records are maintained.

Appendix G–II–B–2–l. When appropriate, considering the agent(s) handled, baseline serum samples for laboratory and other at-risk personnel are collected and stored. Additional serum specimens may be collected periodically depending on the agents handled or the function of the facility.

Appendix G–II–B–2–m. A biosafety manual is prepared or adopted. Personnel are advised of special hazards and are required to read

instructions on practices and procedures and to follow them.

Appendix G–II–B–3—Containment Equipment

Appendix G–II–B–3–a. Biological safety cabinets (Class I or II) (see Appendix G–III–12) or other appropriate personal protective or physical containment devices are used whenever:

Appendix G–II–B–3–a–(1). Procedures with a high potential for creating aerosols are conducted [15]. These may include centrifuging, grinding, blending, vigorous shaking or mixing, sonic disruption, opening containers of materials whose internal pressures may be different from ambient pressures, inoculating animals intranasally, and harvesting infected tissues from animals or eggs.

Appendix G–II–B–3–a–(2). High concentrations or large volumes of organisms containing recombinant DNA molecules are used. Such materials may be centrifuged in the open laboratory if sealed heads or centrifuge safety cups are used and if they are opened only in a biological safety cabinet.

Appendix G–II–B–4—Laboratory Facilities

Appendix G–II–B–4–a. The laboratory is designed so that it can be easily cleaned.

Appendix G–II–B–4–b. Bench tops are impervious to water and resistant to acids, alkalis, organic solvents, and moderate heat.

Appendix G–II–B–4–c. Laboratory furniture is sturdy and spaces between benches, cabinets, and equipment are accessible for cleaning.

Appendix G–II–B–4–d. Each laboratory contains a sink for hand-washing.

Appendix G–II–B–4–e. If the laboratory has windows that open, they are fitted with fly screens.

Appendix G–II–B–4–f. An autoclave for decontaminating laboratory wastes is available.

Appendix G–II–C—Biosafety Level 3 (BL3) [16]

Appendix G–II–C–1. Standard Microbiological Practices.

Appendix G–II–C–1–a. Work surfaces are decontaminated at least once a day and after any spill of viable material.

Appendix G–II–C–1–b. All contaminated liquid or solid wastes are decontaminated before disposal.

Appendix G–II–C–1–c. Mechanical pipetting devices are used; mouth pipetting is prohibited.

Appendix G–II–C–1–d. Eating, drinking, smoking, storing food, and applying cosmetics are not permitted in the work area.

Appendix G–II–C–1–e. Persons wash their hands after handling materials involving organisms containing recombinant DNA molecules, and animals, and when they leave the laboratory.

Appendix G–II–C–1–f. All procedures are performed carefully to minimize the creation of aerosols.

Appendix G–II–C–1–g. Persons under 16 years of age shall not enter the laboratory.

Appendix G–II–C–1–h. If experiments involving other organisms which require lower levels of containment are to be conducted in the same laboratory concurrently with experiments requiring BL3 level physical containment, they shall be conducted in accordance with all BL3 level laboratory practices.

Appendix G–II–C–2—Special Practices

Appendix G–II–C–2–a. Laboratory doors are kept closed when experiments are in progress.

Appendix G–II–C–2–b. Contaminated materials that are to be decontaminated at a site away from the laboratory are placed in a durable leakproof container which is closed before being removed from the laboratory.

Appendix G–II–C–2–c. The laboratory director controls access to the laboratory and restricts access to persons whose presence is required for program or support purposes. The director has the final responsibility for assessing each circumstance and determining who may enter or work in the laboratory.

Appendix G–II–C–2–d. The laboratory director establishes policies and procedures whereby only persons who have been advised of the potential biohazard, who meet any specific entry requirements (e.g., immunization), and who comply with all entry and exit procedures enter the laboratory or animal rooms.

Appendix G–II–C–2–e. When organisms containing recombinant DNA molecules or experimental animals are present in the laboratory or containment module, a hazard warning sign incorporating the universal biohazard symbol is posted on all laboratory and animal room access doors. The hazard warning sign identifies the agent, lists the name and telephone number of the laboratory director or other responsible person(s), and indicates any special requirements for entering the laboratory, such as the need for immunizations, respirators, or other personal protective measures.

Appendix G–II–C–2–f. All activities involving organisms containing recombinant DNA molecules are conducted in biological safety cabinets or other physical containment devices within the containment module. No work in open vessels is conducted on the open bench.

Appendix G–II–C–2–g. The work surfaces of biological safety cabinets and other containment equipment are decontaminated when work with organisms containing recombinant DNA molecules is finished. Plastic-backed paper toweling used on nonperforated work surfaces within biological safety cabinets facilitates clean-up.

Appendix G–II–C–2–h. An insect and rodent program is in effect.

Appendix G–II–C–2–i. Laboratory clothing that protects street clothing (e.g., solid front or wrap-around gowns, scrub suits, coveralls) is worn in the laboratory. Laboratory clothing is not worn outside the laboratory, and it is decontaminated before being laundered.

Appendix G–II–C–2–j. Special care is taken to avoid skin contamination with contaminated materials; gloves should be worn when handling infected animals and when skin contact with infectious materials is unavoidable.

Appendix G–II–C–2–k. Molded surgical masks or respirators are worn in rooms containing experimental animals.

Appendix G–II–C–2–l. Animals and plants not related to the work being conducted are not permitted in the laboratory.

Appendix G–II–C–2–m. Laboratory animals held in a BL3 area shall be housed in partial-containment caging systems, such as Horsfall units [11], open cages placed in ventilated enclosures, solid-wall and -bottom cages covered by filter bonnets, or solid-wall and -bottom cages placed on holding racks equipped with ultraviolet in radiation lamps and reflectors.

Note.—Conventional caging systems may be used provided that all personnel wear appropriate personal protective devices. These shall include at a minimum wrap-around gowns, head covers, gloves, shoe covers, and respirators. All personnel shall shower on exit from areas where these devices are required.

Appendix G–II–C–2–n. All wastes from laboratories and animal rooms are appropriately decontaminated before disposal.

Appendix G–II–C–2–o. Vacuum lines are protected with high efficiency particulate air (HEPA) filters and liquid disinfectant traps.

Appendix G–II–C–2–p. Hypodermic needles and syringes are used only for parenteral injection and aspiration of fluids from laboratory animals and

diaphragm bottles. Only needle-locking syringes or disposable syringe-needle units (i.e., needle is integral to the syringe) are used for the injection or aspiration of fluids containing organisms that contain recombinant DNA molecules. Extreme caution should be used when handling needles and syringes to avoid autoinoculation and the generation of aerosols during use and disposal. Needles should not be bent, sheared, replaced in the needle sheath or guard or removed from the syringe following use. The needle and syringe should be promptly placed in a puncture-resistant container and decontaminated, preferably by autoclaving, before discard or reuse.

Appendix G–II–C–2–q. Spills and accidents which result in overt or potential exposures to organisms containing recombinant DNA molecules are immediately reported to the laboratory director. Appropriate medical evaluation, surveillance, and treatment are provided and written records are maintained.

Appendix G–II–C–2–r. Baseline serum samples for all laboratory and other at-risk personnel should be collected and stored. Additional serum specimens may be collected periodically depending on the agents handled or the function of the laboratory.

Appendix G–II–C–2–s. A biosafety manual is prepared or adopted. Personnel are advised of special hazards and are required to read instructions on practices and procedures and to follow them.

Appendix G–II–C–2–t. Alternative Selection of Containment Equipment. Experimental procedures involving a host-vector system that provides a one-step higher level of biological containment than that specified can be conducted in the BL3 laboratory using containment equipment specified for the BL2 level of physical containment. Experimental procedures involving a host-vector system that provides a one-step lower level of biological containment than that specified can be conducted in the BL3 laboratory using containment equipment specified for the BL4 level of physical containment. Alternative combination of containment safeguards are shown in Table 1.

Appendix G–II–C–3—Containment Equipment

Appendix G–II–C–3–a. Biological safety cabinets (Class I, II, or III) (see Appendix G–III–12) or other appropriate combinations of personal protective or physical containment devices (e.g., special protective clothing, masks, gloves, respirators, centrifuge safety cups, sealed centrifuge rotors, and containment caging for animals) are used for all activities with organisms containing recombinant DNA molecules which pose a threat of aerosol exposure. These include: manipulation of cultures and of those clinical or environmental materials which may be a source of aerosols; the aerosol challenge of experimental animals; and harvesting infected tissues or fluids from experimental animals and embryonate eggs; and necropsy of experimental animals.

Appendix G–II–C–4—Laboratory Facilities

Appendix G–II–C–4–a. The laboratory is separated from areas which are open to unrestricted traffic flow within the building. Passage through two sets of doors is the basic requirement for entry into the laboratory from access corridors or other contiguous areas. Physical separation of the high containment laboratory from access corridors or other laboratories or activities may also be provided by a double-doored clothes change room (showers may be included), airlock, or other access facility which requires passage through two sets of doors before entering the laboratory.

Appendix G–II–C–4–b. The interior surfaces of walls, floors, and ceilings are water resistant so that they can be easily cleaned. Penetrations in these surfaces are sealed or capable of being sealed to facilitate decontaminating the area.

Appendix G–II–C–4–c. Bench tops are impervious to water and resistant to acids, alkalis, organic solvents, and moderate heat.

Appendix G–II–C–4–d. Laboratory furniture is sturdy and spaces between benches, cabinets, and equipment are accessible for cleaning.

Appendix G–II–C–4–e. Each laboratory contains a sink for hand-washing. The sink is foot, elbow, or automatically operated and is located near the laboratory exit door.

Appendix G–II–C–4–f. Windows in the laboratory are closed and sealed.

Appendix G–II–C–4–g. Access doors to the laboratory or containment module are self-closing.

Appendix G–II–C–4–h. An autoclave for decontaminating laboratory wastes is available preferably within the laboratory.

Appendix G–II–C–4–i. A ducted exhaust air ventilation system is provided. This system creates directional airflow that draws air into the laboratory through the entry area. The exhaust air is not recirculated to any other area of the building, is discharged to the outside, and is dispersed away from the occupied areas and air intakes. Personnel must verify that the direction of the airflow (into the laboratory) is proper. The exhaust air from the laboratory room can be discharged to the outside without being filtered or otherwise treated.

Appendix G–II–C–4–j. The HEPA-filtered exhaust air from Class I or Class II biological safety cabinets is discharged directly to the outside or through the building exhaust system. Exhaust air from Class I or II biological safety cabinets may be recirculated within the laboratory if the cabinet is tested and certified at least every twelve months. If the HEPA-filtered exhaust air from Class I or II biological safety cabinets is to be discharged to the outside through the building exhaust air system, it is connected to this system in a manner (e.g., thimble unit connection [12]) that avoids any interference with the air balance of the cabinets or building exhaust system.

Appendix G–II–D—Biosafety Level 4 (BL4).

Appendix G–II–D–1. Standard Microbiological Practices.

Appendix G–II–D–1–a. Work surfaces are decontaminated at least once a day and immediately after any spill of viable material.

Appendix G–II–D–1–b. Only mechanical pipetting devices are used.

Appendix G–II–D–1–c. Eating, drinking, smoking, storing food, and applying cosmetics are not permitted in the laboratory.

Appendix G–II–D–1–d. All procedures are performed carefully to minimize the creation of aerosols.

Appendix G–II–D–2—Special Practices

Appendix G–II–D–2–a. Biological materials to be removed from the Class III cabinets or from the maximum containment laboratory in a viable or intact state are transferred to a nonbreakable, sealed primary container and then enclosed in a nonbreakable, sealed secondary container which is removed from the facility through a disinfectant dunk tank, fumigation chamber, or an airlock designed for this purpose.

Appendix G–II–D–2–b. No materials, except for biological materials that are to remain in a viable or intact state, are removed from the maximum containment laboratory unless they have been autoclaved or decontaminated before they leave the facility. Equipment or material which might be damaged by high temperatures or steam is decontaminated by gaseous

or vapor methods in an airlock or chamber designed for this purpose.

Appendix G–II–D–2–c. Only persons whose presence in the facility or individual laboratory rooms is required for program or support purposes are authorized to enter. The supervisor has the final responsibility for assessing each circumstance and determining who may enter or work in the laboratory. Access to the facility is limited by means of secure, locked doors; accessibility is managed by the laboratory director, biohazards control officer, or other person responsible for the physical security of the facility. Before entering, persons are advised of the potential biohazards and instructed as to appropriate safeguards for ensuring their safety. Authorized persons comply with the instructions and all other applicable entry and exit procedures. A logbook signed by all personnel indicates the date and time of each entry and exit. Practical and effective protocols for emergency situations are established.

Appendix G–II–D–2–d. Personnel enter and leave the facility only through the clothing change and shower rooms. Personnel shower each time they leave the facility. Personnel use the airlocks to enter or leave the laboratory only in an emergency.

Appendix G–II–D–2–e. Street clothing is removed in the outer clothing change room and kept there. Complete laboratory clothing, including undergarments, pants and shirts or jumpsuits, shoes, and gloves, is provided and used by all personnel entering the facility. Head covers are provided for personnel who do not wash their hair during the exit shower. When leaving the laboratory and before proceeding into the shower area, personnel remove their laboratory clothing and store it in a locker or hamper in the inner change room.

Appendix G–II–D–2–f. When materials that contain organisms containing recombinant DNA molecules or experimental animals are present in the laboratory or animal rooms, a hazard warning sign incorporating the universal biohazard symbol is posted on all access doors. The sign identifies the agent, lists the name of the laboratory director or other responsible person(s), and indicates any special requirements for entering the area (e.g., the need for immunizations or respirators).

Appendix G–II–D–2–g. Supplies and materials needed in the facility are brought in by way of the double-doored autoclave, fumigation chamber, or airlock which is appropriately decontaminated between each use. After securing the outer doors, personnel within the facility retrieve the materials by opening the interior doors or the autoclave, fumigation chamber, or airlock. These doors are secured after materials are brought into the facility.

Appendix G–II–D–2–h. An insect and rodent control program is in effect.

Appendix G–II–D–2–i. Materials (e.g., plants, animals, and clothing) not related to the experiment being conducted are not permitted in the facility.

Appendix G–II–D–2–j. Hypodermic needles and syringes are used only for parenteral injection and aspiration of fluids from laboratory animals and diaphragm bottles. Only needle-locking syringes or disposable syringe-needle units (i.e., needle is integral part of unit) are used for the injection or aspiration of fluids containing organisms that contain recombinant DNA molecules. Needles should not be bent, sheared, replaced in the needle sheath or guard, or removed from the syringe following use. The needle and syringe should be placed in a puncture-resistant container and decontaminated, preferably by autoclaving before discard or reuse. Whenever possible, cannulas are used instead of sharp needles (e.g., gavage).

Appendix G–II–D–2–k. A system is set up for reporting laboratory accidents and exposures and employee absenteeism and for the medical surveillance of potential laboratory-associated illnesses. Written records are prepared and maintained. An essential adjunct to such a reporting-surveillance system is the availability of a facility for quarantine, isolation, and medical care of personnel with potential or known laboratory associated illnesses.

Appendix G–II–D–2–l. Laboratory animals involved in experiments requiring BL4 level physical containment shall be housed either in cages contained in Class III cabinets or in partial containment caging systems (such as Horsfall units [11]), open cages placed in ventilated enclosures, or solid-wall and -bottom cages placed on holding racks equipped with ultraviolet irradiation lamps and reflectors that are located in a specially designed area in which all personnel are required to wear one-piece positive pressure suits.

Appendix G–II–D–2–m. Alternative Selection of Containment Equipment. Experimental procedures involving a host-vector system that provides a one-step higher level of biological containment than that specified can be conducted in the BL4 facility using containment equipment requirements specified for the BL3 level of physical containment. Alternative combinations of containment safeguards are shown in Table I.

Appendix G–II–D–3.—Containment Equipment

Appendix G–II–D–3–a. All procedures within the facility with agents assigned to Biosafety Level 4 are conducted in the Class III biological safety cabinet or in Class I or II biological safety cabinets used in conjunction with one-piece positive pressure personnel suits ventilated by a life-support system.

Appendix G–II–D–4.—Laboratory Facilities

Appendix G–II–D–4–a. The maximum containment facility consists of either a separate building or a clearly demarcated and isolated zone within a building. Outer and inner change rooms separated by a shower are provided for personnel entering and leaving the facility. A double-doored autoclave, fumigation chamber, or ventilated airlock is provided for passage of those materials, supplies, or equipment which are not brought into the facility through the change room.

Appendix G–II–D–4–b. Walls, floors, and ceilings of the facility are constructed to form a sealed internal shell which facilitates fumigation and is animal and insect proof. The internal surfaces of this shell are resistant to liquids and chemicals, thus facilitating cleaning and decontamination of the area. All penetrations in these structures and surfaces are sealed. Any drains in the floors contain traps filled with a chemical disinfectant of demonstrated efficacy against the target agent, and they are connected directly to the liquid waste decontamination system. Sewer and other ventilation lines contain HEPA filters.

Appendix G–II–D–4–c. Internal facility appurtenances, such as light fixtures, air ducts, and utility pipes, are arranged to minimize the horizontal surface area on which dust can settle.

Appendix G–II–D–4–d. Bench tops have seamless surfaces which are impervious to water and resistant to acids, alkalis, organic solvents, and moderate heat.

Appendix G–II–D–4–e. Laboratory furniture is of simple and sturdy construction, and spaces between benches, cabinets, and equipment are accessible for cleaning.

Appendix G–II–D–4–f. A foot, elbow, or automatically operated hand-washing sink is provided near the door of each laboratory room in the facility.

Appendix G–II–D–4–g. If there is a central vacuum system, it does not serve areas outside the facility. In-line HEPA filters are placed as near as practicable to each use point or service cock. Filters

are installed to permit in-place decontamination and replacement. Other liquid and gas services to the facility are protected by devices that prevent backflow.

Appendix G–II–D–4–h. If water fountains are provided, they are foot operated and are located in the facility corridors outside the laboratory. The water service to the fountain is not connected to the backflow-protected distribution system supplying water to the laboratory areas.

Appendix G–II–D–4–i. Access doors to the laboratory are self-closing and lockable.

Appendix G–II–D–4–j. Any windows are breakage resistant.

Appendix G–II–D–4–k. A double-doored autoclave is provided for decontaminating materials passing out of the facility. The autoclave door which opens to the area external to the facility is sealed to the outer wall and automatically controlled so that the outside door can only be opened after the autoclave "sterilization" cycle has been completed.

Appendix G–II–D–4–l. A pass-through dunk tank, fumigation chamber, or an equivalent decontamination method is provided so that materials and equipment that cannot be decontaminated in the autoclave can be safely removed from the facility.

Appendix G–II–D–4–m. Liquid effluents from laboratory sinks, biological safety cabinets, floors, and autoclave chambers are decontaminated by heat treatment before being released from the maximum containment facility. Liquid wastes from shower rooms and toilets may be decontaminated with chemical disinfectants or by heat in the liquid waste decontamination system. The procedure used for heat decontamination of liquid wastes is evaluated mechanically and biologically by using a recording thermometer and an indicator microorganism with a defined heat susceptibility pattern. If liquid wastes from the shower room are decontaminated with chemical disinfectants, the chemical used is of demonstrated efficacy against the target or indicator microorganisms.

Appendix G–II–D–4–n. An individual supply and exhaust air ventilation system is provided. The system maintains pressure differentials and directional airflow as required to assure flows inward from areas outside of the facility toward areas of highest potential risk within the facility. Manometers are used to sense pressure differentials between adjacent areas maintained at different pressure levels. If a system malfunctions, the manometers sound an alarm. The supply and exhaust airflow is interlocked to assure inward (or zero) airflow at all times.

Appendix G–II–D–4–o. The exhaust air from the facility is filtered through HEPA filters and discharged to the outside so that it is dispersed away from occupied buildings and air intakes. Within the facility, the filters are located as near the laboratories as practicable in order to reduce the length of potentially contaminated air ducts. The filter chambers are designed to allow *in situ* decontamination before filters are removed and to facilitate certification testing after they are replaced. Coarse filters and HEPA filters are provided to treat air supplied to the facility in order to increase the lifetime of the exhaust HEPA filters and to protect the supply air system should air pressures become unbalanced in the laboratory.

Appendix G–II–D–4–p. The treated exhaust air from Class I and II biological safety cabinets can be discharged into the laboratory room environment or the outside through the facility air exhaust system. If exhaust air from Class I or II biological safety cabinets is discharged into the laboratory the cabinets are tested and certified at 6-month intervals. *The exhaust air from Class III biological safety cabinets is discharged, without recirculation through two sets of HEPA filters in series, via the facility exhaust air system.* If the treated exhaust air from any of these cabinets is discharged to the outside through the facility exhaust air system, it is connected to this system in a manner (e.g., thimble unit connection [12]) that avoids any interference with the air balance of the cabinets or the facility exhaust air system.

Appendix G–II–D–4–q. A specially designed suit area may be provided in the facility. Personnel who enter this area wear a one-piece positive pressure suit that is ventilated by a life-support system. The life-support system includes alarms and emergency backup breathing air tanks. Entry to this area is through an airlock fitted with airtight doors. A chemical shower is provided to decontaminate the surface of the suit before the worker leaves the area. The exhaust air from the suit area is filtered by two sets of HEPA filters installed in series. A duplicate filtration unit, exhaust fan, and an automatically starting emergency power source are provided. The air pressure within the suit area is lower than that of any adjacent area. Emergency lighting and communication systems are provided. All penetrations into the internal shell of the suit area are sealed. A double-doored autoclave is provided for decontaminating waste materials to be removed from the suit area.

TABLE 1.—POSSIBLE ALTERNATE COMBINATIONS OF PHYSICAL AND BIOLOGICAL CONTAINMENT SAFEGUARDS

Classification of physical and biological containment	Alternate physical containment			Alternate biological containment
	Laboratory facilities	Laboratory practices	Containment equipment	
BL3/HV2	BL3	BL3	BL3	HV2
	BL3	BL3	BL4	HV1
BL3/HV1	BL3	BL3	BL3	HV1
	BL3	BL3	BL2	HV2
BL4/HV1	BL4	BL4	BL4	HV1
	BL4	BL4	BL3	HV2

Appendix G–III—Footnotes and References of Appendix G

1. *Laboratory Safety at the Center for Disease Control* (Sept. 1974). U.S. Department of Health Education and Welfare Publication No. CDC 75–8118.

2. *Biosafety in Microbiological and Biomedical Laboratories*, 1st Edition (March 1984). U.S. Department of Health and Human Services, Public Health Service, Centers for Disease Control, Atlanta, Georgia 30333, and National Institutes of Health, Bethesda, Maryland 20205.

3. *National Cancer Institute Safety Standards for Research Involving Oncogenic Viruses* (Oct. 1974). U.S. Department of Health, Education and Welfare Publication No. (NIH) 75–790.

4. *National Institutes of Health Biohazards Safety Guide* (1974). U.S. Department of Health, Education, and Welfare, Public Health Service, National Institutes of Health. U.S. Government Printing Office, Stock No. 1740–00383.

5. *Biohazards in Biological Research* (1973). A. Hellman, M.N. Oxman, and R. Pollack (ed.) Cold Spring Harbor Laboratory.

6. *Handbook of Laboratory Safety* (1971). 2nd Edition. N.V. Steere (ed.). The Chemical Rubber Co., Cleveland.

7. Bodily, J.L. (1970). *General Administration of the Laboratory*, H.L. Bodily, E.L. Updyke, and J.O. Mason (eds.), Diagnostic Procedures for Bacterial, Mycotic and Parasitic Infections. American Public Health Association, New York, pp. 11–28.

8. Darlow, H.M. (1969). *Safety in the Microbiological Laboratory*. In J.R. Norris and D.W. Robbins (ed.), Methods in Microbiology. Academic Press, Inc., New York, pp. 169–204.

9. *The Prevention of Laboratory Acquired Infection* (1974). C.H. Collins, E.G. Hartley, and R. Pilsworth. Public Health Laboratory Service, Monograph Series No. 6.

10. Chatigny, M.A. (1961). *Protection Against Infection in the Microbiological Laboratory: Devices and Procedures*. In W.W. Umbreit (ed.), Advances in Applied Microbiology. Academic Press, New York, N.Y. 3:131–192.

11. Horsfall, F.L., Jr., and J.H. Baner (1940). *Individual Isolation of Infected Animals in a Single Room*. J. Bact. *40*, 569–580.

12. Biological safety cabinets referred to in this section are classified as *Class I, Class II,* or *Class III* cabinets. A *Class I* is a ventilated cabinet for personnel protection having an

inward flow of air away from the operator. The exhaust air from this cabinet is filtered through a high-efficiency particulate air (HEPA) filter. This cabinet is used in three operational modes: (1) with a full-width open front, (2) with an installed front closure panel (having four 8-inch diameter openings) without gloves, and (3) with an installed front closure panel equipped with arm-length rubber gloves. The face velocity of the inward flow of air through the full-width open front is 75 feet per minute or greater.

A *Class II* cabinet is a ventilated cabinet for personnel and product protection having an open front with inward air flow for personnel protection, and HEPA filtered mass recirculated air flow for product protection. The cabinet exhaust air is filtered through a HEPA filter. The face velocity of the inward flow of air through the full-width open front is 75 feet per minute or greater. Design and performance specifications for *Class II* cabinets have been adopted by the National Sanitation Foundation, Ann Arbor, Michigan. A *Class III* cabinet is a closed-front ventilated cabinet of gas-tight construction which provides the highest level of personnel protection of all biohazard safety cabinets. The interior of the cabinet is protected from contaminants exterior to the cabinet. The cabinet is fitted with arm-length rubber gloves and is operated under a negative pressure of at least 0.5 inches water gauge. All supply air is filtered through HEPA filters. Exhaust air is filtered through two HEPA filters or one HEPA filter and incinerator before being discharged to the outside environment. National Sanitation Foundation Standard 49. 1976. Class II (Laminar Flow) Biohazard Cabinetry. Ann Arbor, Michigan.

13. Biosafety Level 1 is suitable for work involving agents of no known or minimal potential hazard to laboratory personnel and the environment. The laboratory is not separated from the general traffic patterns in the building. Work is generally conducted on open bench tops. Special containment equipment is not required or generally used. Laboratory personnel have specific training in the procedures conducted in the laboratory and are supervised by a scientist with general training in microbiology or a related science (see Appendix G–III–2).

14. Biosafety Level 2 is similar to Level 1 and is suitable for work involving agents of moderate potential hazard to personnel and the environment. It differs in that: (1) laboratory personnel have specific training in handling pathogenic agents and are directed by competent scientists; (2) access to the laboratory is limited when work is being conducted; and (3) certain procedures in which infectious aerosols are created are conducted in biological safety cabinets or other physical containment equipment (see Appendix G–III–2).

15. Office of Research Safety, National Cancer Institute, and the Special Committee of Safety and Health Experts. 1978. "Laboratory Safety Monograph: A Supplement to the NIH Guidelines for Recombinant DNA Research." Bethesda, Maryland, National Institutes of Health.

16. Biosafety Level 3 is applicable to clinical, diagnostic, teaching, research, or production facilities in which work is done with indigenous or exotic agents which may cause serious or potentially lethal disease as a result of exposure by the inhalation route. Laboratory personnel have specific training in handling pathogenic and potentially lethal agents and are supervised by competent scientists who are experienced in working with these agents. All procedures involving the manipulation of infectious material are conducted within biological safety cabinets or other physical containment devices or by personnel wearing appropriate personal protective clothing and devices. The laboratory has special engineering and design features. It is recognized, however, that many existing facilities may not have all the facility safeguards recommended for Biosafety Level 3 (e.g., access zone, sealed penetrations, and directional airflow, etc.). In these circumstances, acceptable safety may be achieved for routine or repetitive operations (e.g., diagnostic procedures involving the propagation of an agent for identification, typing, and susceptibility testing) in laboratories where facility features satisfy Biosafety Level 2 recommendations provided the recommended "Standard Microbiological Practices," "Special Practices," and "Containment Equipment" for Biosafety Level 3 are rigorously followed. The decision to implement this modification of Biosafety Level 3 recommendations should be made only by the laboratory director (see Appendix G–III–2).

Appendix H—Shipment

Recombinant DNA molecules contained in an organism or virus shall be shipped only as an etiologic agent under requirements of the U.S. Public Health Service, and the U.S. Department of Transportation (§ 72.3, Part 72, Title 42, and §§ 173.386–.388, Part 173, Title 49, U.S. Code of Federal Regulations (CFR)) as specified below:

Appendix H–I

Recombinant DNA molecules contained in an organism or virus requiring BL1, BL2, or BL3 physical containment, when offered for transportation or transported, are subject to all requirements of §§ 72.3(a)–(e), Part 72, Title 42 CFR, and §§ 173.386–.388, Part 173, Title 49 CFR.

Appendix H–II

Recombinant DNA molecules contained in an organism or virus requiring BL4 physical containment, when offered for transportation or transported, are subject to the requirements listed above under Appendix H–I and are also subject to § 72.3(f), Part 72, Title 42 CFR.

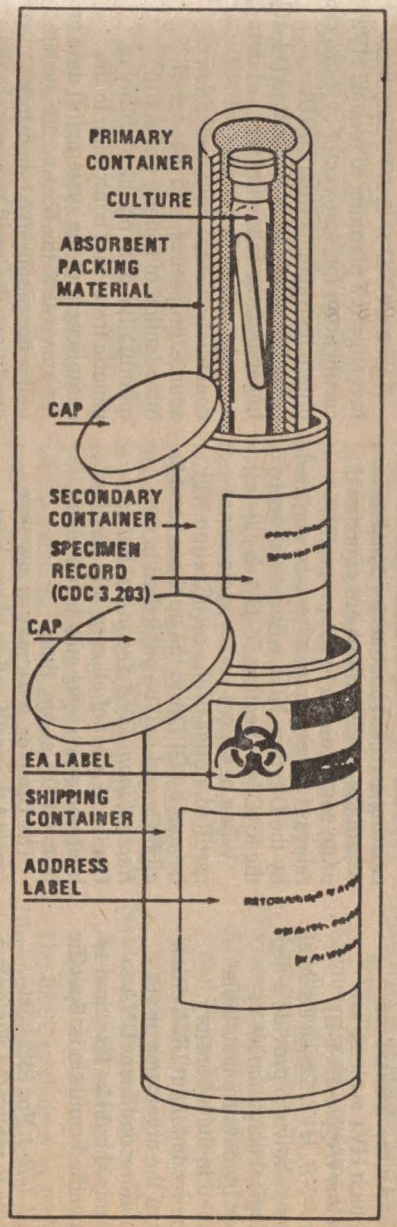
Appendix H–III

Information on packaging and labeling of etiologic agents is shown in Figures 1, 2, and 3. Additional information on packaging and shipment is given in the "Laboratory Safety Monograph—A Supplement to the NIH Guidelines for Recombinant DNA Research," available from the Office of Recombinant DNA Activities and in *Biosafety in Microbiological and Biomedical Laboratories* (see Appendix G–III–2).

BILLING CODE 4140–01–M

FIGURE 1

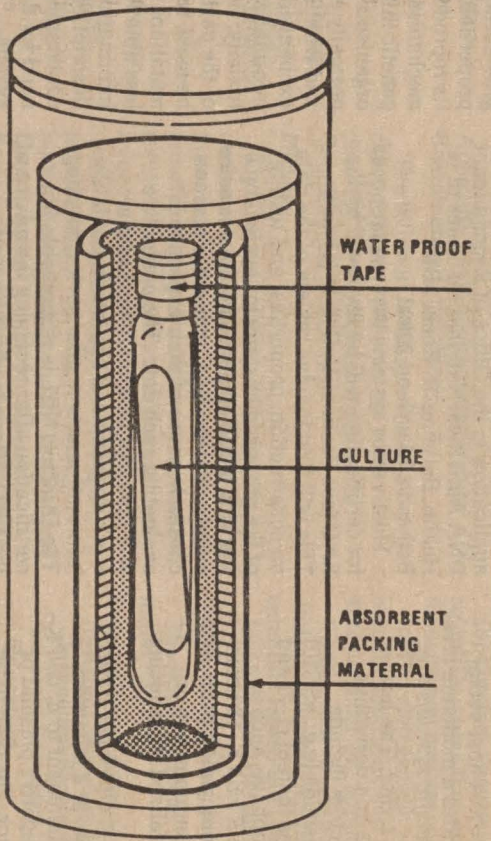
FIGURE 1



BILLING CODE 4140-01-C

PACKAGING AND LABELING OF ETIOLOGIC AGENTS

FIGURE 2



CROSS SECTION OF PROPER PACKING

The Interstate Shipment of Etiologic Agents (42 CFR, Part 72) was revised July 21, 1980 to provide for packaging and labeling requirements for etiologic agents and certain other materials shipped in interstate traffic.

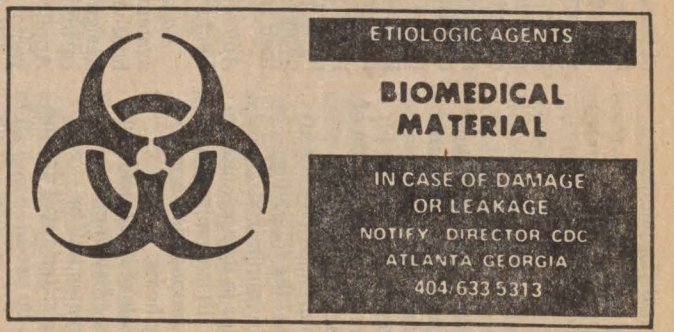
Figures 1 and 2 diagram the packaging and labeling of etiologic agents in volumes of less than 50 ml. in accordance with the provisions of subparagraph 72.3 (a) of the cited regulation. Figure illustrates the color and size of the label, decribed in subparagraph 72.3 (d) (1 - 5) of the regulations, which shall be affixed to all shipments of etiologic agents.

For further information on any provision of this regulation contact:

Centers for Disease Control
Attn: Biohazards Control Office
1600 Clifton Road
Atlanta, Georgia 30333

Telephone: 404—329-3883
FTS—236-3883

FIGURE 3



Appendix I—Biological Containment

(See also Appendix E)

Appendix I–I—Levels of Biological Containment.

In consideration of biological containment, the vector (plasmid, organelle, or virus) for the recombinant DNA and the host (bacterial, plant, or animal cell) in which the vector is propagated in the laboratory will be considered together. Any combination of vector and host which is to provide biological containment must be chosen or constructed so that the following types of "escape" are minimized: (i) Survival of the vector in its host outside the laboratory, and (ii) transmission of the vector from the propagation host to other nonlaboratory hosts.

The following levels of biological containment (HV, or *H*ost-*V*ector, systems) for prokaryotes will be established; specific criteria will depend on the organisms to be used.

Appendix I–I–A. HV1. A host-vector system which provides a moderate level of containment. *Specific systems* are:

Appendix I–I–A–1. EK1. The host is always *E. coli* K–12 or a derivative thereof, and the vectors include nonconjugative plasmids (e.g., pSC101, ColEl, or derivatives thereof [1–7] and variants of bacteriophage, such as lambda [8–15]. The *E. coli* K–12 hosts shall not contain conjugation-proficient plasmids, whether autonomous or integrated, or generalized transducing phages.

Appendix I–I–A–2. Other HV1. Hosts and vectors shall be, at a minimum, comparable in containment to *E. coli* K–12 with a non conjugative plasmid or bacteriophage vector. The data to be considered and a mechanism for approval of such HV1 systems are described below (Appendix I–II).

Appendix I–I–B. HV2. These are host-vector systems shown to provide a high level of biological containment as demonstrated by data from suitable tests performed in the laboratory. Escape of the recombinant DNA either via survival of the organisms or via transmission of recombinant DNA to other organisms should be less than $1/10^8$ under specified conditions. Specific systems are:

Appendix I–I–B–1. For EK2 host-vector systems in which the vector is a plasmid, no more than one in 10^8 host cells should be able to perpetuate a cloned DNA fragment under the specified nonpermissive laboratory conditions designed to represent the natural environment, either by survival of the original host or as a consequences of transmission of the cloned DNA fragment.

Appendix I–I–B–2. For EK2 host-vector systems in which the vector is a phage, no more than one in 10^8 phage particles should be able to perpetuate a cloned DNA fragment under the specified nonpermissive laboratory conditions designed to represent the natural environment either: (i) as a prophage (in the inserted or plasmid form) in the laboratory host used for phage propagation or (ii) by surviving in natural environments and transferring a cloned DNA fragment to other hosts (or their resident prophages).

Appendix I–II—Certification of Host-Vector Systems

Appendix I–II–A. Responsibility. HV1 systems other than *E. coli* K–12 and HV2 host-vector systems may not be designated as such until they have been certified by the Director, NIH. Application for certification of a host-vector system is made by written application to the Office of Recombinant DNA Activities, National Institutes of Health, Building 31, Room 3B10, Bethesda, Maryland 20892.

Host-vector systems that are proposed for certification will be reviewed by the RAC (see Section IV–C–1–b–(1)–(e)). This will first involve review of the data on construction, properties, and testing of the proposed host-vector system by a working group composed of one or more members of the RAC and other persons chosen because of their expertise in evaluating such data. The committee will then evaluate the report of the working group and any other available information at a regular review meeting. The Director, NIH, is responsible for certification after receiving the advice of the RAC. Minor modifications of existing certified host-vector systems where the modifications are of minimal or no consequence to the properties relevant to containment may be certified by the Director, NIH, without review by the RAC (see Section IV–C–1–b–(3)–(c)).

When new host-vector systems are certified, notice of the certification will be sent by ORDA to the applicant and to all IBCs and will be published in the *Recombinant DNA Technical Bulletin.* Copies of a list of all currently certified host-vector systems may be obtained from ORDA at any time.

The Director, NIH, may at any time rescind the certification of any host-vector system (see Section IV–C–1–b–(3)–(d)). If certification of a host-vector system is rescinded, NIH will instruct investigators to transfer cloned DNA into a different system or use the clones at a higher physical containment level unless NIH determines that the already constructed clones incorporate adequate biological containment.

Certification of a given system does not extend to modifications of either the host or vector component of that system. Such modified systems must be independently certified by the Director, NIH. If modifications are minor, it may only be necessary for the investigator to submit data showing that the modifications have either improved or not impaired the major phenotypic traits on which the containment of the system depends. Substantial modifications of a certified system require the submission of complete testing data.

Appendix I–II–B. Data to be Submitted for Certification.

Appendix I–II–B–1. HV1 Systems Other than E. coli K–12. The following types of data shall be submitted, modified as appropriate for the particular system under consideration: (i) A description of the organism and vector; the strain's natural habitat and growth requirements; its physiological properties, particularly those related to its reproduction and survival and the mechanisms by which it exchanges genetic information; the range of organisms with which this organism normally exchanges genetic information and what sort of information is exchanged; and any relevant information on its pathogenicity or toxicity; (ii) a description of the history of the particular strains and vectors to be used, including data on any mutations which render this organism less able to survive or transmit genetic information; and (iii) a general description of the range of experiments contemplated with emphasis on the need for developing such an HV1 system.

Appendix I–II–B–2. HV2 Systems. Investigators planning to request HV2 certification for host-vector systems can obtain instructions from ORDA concerning data to be submitted [14–15]. In general, the following types of data are required: (i) Description of construction steps with indication of source, properties, and manner of introduction of genetic traits; (ii) quantitative data on the stability of genetic traits that contribute to the containment of the system; (iii) data on the survival of the host-vector system under nonpermissive laboratory conditions designed to represent the relevant natural environment; (iv) Data on transmissibility of the vector and/or a cloned DNA fragment under both permissive and nonpermissive conditions; (v) data on all other properties of the system which affect containment and utility, including

information on yields of phage or plasmid molecules, ease of DNA isolation, and ease of transfection or transformation; and (vi) in some cases, the investigator may be asked to submit data on survival and vector transmissibility from experiments in which the host-vector is fed to laboratory animals and human subjects. Such *in vivo* data may be required to confirm the validity of predicting *in vivo* survival on the basis of *in vitro* experiments.

Data must be submitted in writing to ORDA. Ten to twelve weeks are normally required for review and circulation of the data prior to the meeting at which such data can be considered by the RAC. Investigators are encouraged to publish their data on the construction, properties, and testing of proposed HV2 systems prior to consideration of the system by the RAC and its subcommittee. More specific instructions concerning the type of data to be submitted to NIH for proposed EK2 systems involving either plasmids or bacteriophage in *E. coli* K–12 are available from ORDA.

Appendix I–III—Footnotes and References of Appendix I

1. Hersfield, V., H.W. Boyer, C. Yanofsky, M.A. Lovett, and D.R. Helinski (1974). *Plasmid ColEl as a Molecular Vehicle for Cloning and Amplification of DNA.* Proc. Nat. Acad. Sci. USA *71*, 3455–3459.

2. Wensink, P.C., D.J. Finnegan, J.E. Donelson, and D.S. Hogness (1974). *A System for Mapping DNA Sequences in the Chromosomes of Drosophila Melanogaster.* Cell *3*, 315–335.

3. Tanaka, T., and B. Weisblum (1975). *Construction of a Colicin El–R Factor Composite Plasmid In Vitro: Means for Amplification of Deoxyribonucleic Acid.* J. Bacteriol. *121*, 354–362.

4. Armstrong, K.A., V. Hershfield, and D.R. Helinski (1977). *Gene Cloning and Containment Properties of Plasmid Col El and Its Derivatives*, Science *196*, 172–174.

5. Bolivar, F., R.L. Rodriguez, M.C. Betlach, and H.W. Boyer (1977). *Construction and Characterization of New Cloning Vehicles: I. Ampicillin-Resistant Derivative of pMB9.* Gene *2*. 75–93.

6. Cohen, S.N., A.C.W. Chang, H. Boyer, and R. Helling (1973). *Construction of Biologically Functional Bacterial Plasmids in Vitro.* Proc. Natl. Acad, Sci. USA *70*, 3240–3244.

7. Bolivar, F., R.L. Rodriguez, R.J. Greene, M.C. Batlach, H.L. Reyneker, H.W. Boyer, J.H. Crosa, and S. Falkow (1977). *Construction and Characterization of New Cloning Vehicles: II. A Multi-Purpose Cloning System.* Gene *2*, 95–113.

8. Thomas, M., J.R. Cameron, and R.W. Davis (1974). *Viable Molecular Hybrids of Bacteriophage Lambda and Eukaryotic DNA.* Proc. Nat. Acad. Sci. USA *71*, 4579–4583.

9. Murray, N.E., and K. Murray (1974). *Manipulation of Restriction Targets in Phage Lambda to Form Receptor Chromosomes for DNA Fragments.* Nature *251*, 476–481.

10. Ramback, A., and P. Tiollais (1974). *Bacteriophage Having EcoRI Endonuclease Sites Only in the Non-Essential Region of the Genome.* Proce. Nat. Acad. Sci., USA *71*, 3927–3930.

11. Blattner, F.R., B.G. Williams, A.E. Bleche, K. Denniston-Thompson, H.E. Faber, L.A. Furlong, D.J. Gunwald, D.O. Kiefer, D.D. Moore, J.W. Shumm, E.L. Sheldon, and O. Smithies (1977). *Charon Phages: Safer Derivatives of Bacteriophage Lambda for DNA Cloning.* Science *196*, 163–169.

12. Donoghue, D.J., and P.A. Sharp (1977). *An Improved Lambda Vector: Construction of Model Recombinants Coding for Kanamycin Resistance*, Gene *1*, 209–227.

13. Leder, P., D. Tiemeier and L. Enquist (1977). *EK2 Derivatives of Bacteriophage Lambda Useful in the Cloning of DNA from Higher Organisms: The λgt WES System.* Science *196*, 175–177.

14. Skalka, A. (1978). *Current Status of Coliphage λ EK2 Vectors.* Gene *3*, 29–35.

15. Szybalski, W., A. Skalka, S. Gottesman, A. Campbell, and D. Botstein (1978). *Standardized Laboratory Tests for EK2 Certification.* Gene *3*, 36–38.

Appendix J—Biotechnology Science Coordinating Committee

The following excerpts from its charter (signed October 30, 1985) describe the Biotechnology Science Coordinating Committee:

Purpose

The Domestic Policy Working Group on Biotechnology has determined that in the area of biotechnology with its rapid growth of scientific discovery, scientific issues of interagency concern will arise frequently and need to be communicated among the various agencies involved with reviews of biotechnology applications. The Federal Coordinating Council for Science, Engineering, and Technology (FCCSET) established by 42 U.S.C. 6651 is an interagency science committee chaired by the Director of the Office of Science and Technology Policy with the mission of coordinating science activities affecting more than one agency. Committees may be established under FCCSET for addressing particular science issues. Thus, the Biotechnology Science Coordinating Committee (BSCC) is established to provide formally an opportunity for interagency science policy coordination and guidance and for the exchange of information regarding the scientific aspects of biotechnology applications submitted to federal research and regulatory agencies for approval.

Functions

The BSCC will coordinate interagency review of scientific issues related to the assessments and approval of biotechnology research applications and biotechnology product applications and postmarketing surveillance when they involve the use of recombinant RNA, recombinant DNA, cell fusion or similar techniques.

The BSCC will:

(a) Serve as a coordinating forum for addresssing scientific problems, sharing information, and developing consensus;

(b) Promote consistency in the development of Federal agencies' review procedures and assessments;

(c) Facilitate continuing cooperation among Federal agencies on emerging scientific issues; and

(d) Identify gaps in scientific knowledge.

Authority

To accomplish these functions the BSCC is authorized to:

(a) Receive documentation from agencies necessary for the performance of its function;

(b) Conduct analyses of broad scientific issues that extend beyond those of any one agency;

(c) Develop generic scientific recommendations that can be applied to similar, recurring applications;

(d) Convene workshops, symposia, and generic research projects related to scientific issues in biotechnology; and

(e) Hold periodic public meetings.

Members and Chairman

The BSCC includes the following initial members:

Department of Agriculture
- Assistant Secretary for Marketing and Inspection Services
- Assistant Secretary for Science and Education

Department of Health and Human Services
- Commissioner, Food and Drug Administration
- Director, National Institutes of Health

Environmental Protection Agency
- Assistant Administrator for Pesticides and Toxic Substances
- Assistant Administrator for Research and Development

National Science Foundation
- Assistant Director of Biological, Behavorial & Social Sciences

The BSCC is chaired by the Assistant Director for Biological, Behavioral and Social Sciences of the National Science Foundation and the Director of the National Institutes of Health on a rotating basis.

Administrative Provisions

(a) The BSCC will report to the FCCSET through the Chair.

(b) Meetings of the BSCC shall be held periodically. Some public meetings will be held.

(c) Confidential business information and proprietary information shall be protected under the confidentiality requirements of each member agency.

(d) Subcommittees and working groups, with participation not restricted to BSCC members or full-time Federal employees, may be formed to assist the BSCC in its work.

(e) All BSCC members will be full-time Federal employees whose compensation, reimbursement for travel expenses and other costs shall be borne by their respective agencies.

(f) Each member of the BSCC shall provide such agency support and resources as may be available and necessary for the operation of the BSCC including undertaking special studies as come within the functions assigned herein.

(g) An Office of Science and Technology Policy staff member will serve as BSCC Executive Secretary.

Appendix K—Physical Containment for Large-Scale Uses of Organisms Containing Recombinant DNA Molecules

This part of the Guidelines specifices physical containment guidelines for large-scale (greater than 10 liters of culture) research or production involving viable organisms containing recombinant DNA molecules. It shall apply to large-scale research or production activities as specified in Section III–B–5 of the Guidelines.

All provisions of the Guidelines shall apply to large-scale research or production activities with the following modifications:

- Appendix K shall replace Appendix G when quantities in excess of 10 liters of culture are involved in research or production.
- The institutions shall appoint a Biological Safety Officer (BSO) if it engages in large-scale research or production activities involving viable organisms containing recombinant DNA molecules. The duties of the BSO shall include those specified in Section IV–B–4 of the Guidelines.
- The institution shall establish and maintain a health surveillance program for personnel engaged in large-scale research or production activities involving viable organisms containing recombinant DNA molecules which require BL3 containment at the laboratory scale. The program shall include: preassignment and periodic physical and medical examinations; collection, maintenance and analysis of serum specimens for monitoring serologic changes that may result from the employee's work experience; and provisions for the investigation of any serious, unusual or extended illnesses of employees to determine possible occupational origin.

Appendix K–I.—Selection of Physical Containment Levels.

The selection of the physical containment level required for recombinant DNA research or production involving more than 10 liters of culture is based on the containment guidelines established in Part III of the Guidelines. For purposes of large-scale research or production, three physical containment levels are established. These are referred to as BL1–LS, BL2–LS, and BL3–LS. The BL–LS level of physical containment is required for large-scale research or production of viable organisms containing recombinant DNA molecules which require BLI containment at the laboratory scale. (The BL1–LS level of physical containment is recommended for large-scale research or production of viable organisms for which BLI is recommended at the laboratory scale such as those described in Appendix C.) The BL2–LS level of physical containment is required for large-scale research or production of viable organisms containing recombinant DNA molecules which require BL2 containment at the laboratory scale. The BL3–LS level of physical containment is required for large-scale research or production of viable organisms containing recombinant DNA molecules which require BL3 contaiment at the laboratory scale. No provisions are made for large-scale research or production of viable organisms containing recombinant DNA molecules which require BL4 containment at the laboratory scale. If necessary, these requirements will be established by NIH on an individual basis.

Appendix K–II—BL1–LS Level

Appendix K–II–A. Cultures of viable organisms containing recombinant DNA molecules shall be handled in a closed system (e.g., closed vessel used for the propagation and growth of cultures) or other primary containment equipment (e.g., biological safety cabinet containing a centrifuge used to process culture fluids) which is designed to reduce the potential for escape of viable organisms. Volumes less than 10 liters may be handled outside of a closed system or other primary containment equipment provided all physical containment requirements specified in Appendix G–II–A of the Guidelines are met.

Appendix K–II–B. Culture fluids (except as allowed in Appendix K–II–C) shall not be removed from a closed system or other primary containment equipment unless the viable organisms containing recombinant DNA molecules have been inactivated by a validated inactivation procedure. A validated inactivation procedure is one which has been demonstrated to be effective using the organism that will serve as the host for propagating the recombinant DNA molecules.

Appendix K–II–C. Sample collection from a closed system, the addition of materials to a closed system, and the transfer of culture fluids from one closed system to another shall be done in a manner which minimizes the release of aerosols or contamination of exposed surfaces.

Appendix K–II–D. Exhaust gases removed from a closed system or other primary containment equipment shall be treated by filters which have efficiencies equivalent to HEPA filters or by other equivalent procedures (e.g., incineration) to minimize the release of viable organisms containing recombinant DNA molecules to the environment.

Appendix K–II–E. A closed system or other primary containment equipment that has contained viable organisms containing recombinant DNA molecules shall not be opened for maintenance or other purposes unless it has been sterilized by a validated sterilization procedure. A validated sterilization procedure is one which has been demonstrated to be effective using the organism that will serve as the host for propagating the recombinant DNA molecules.

Appendix K–II–F. Emergency plans required by Section IV–B–3–f shall include methods and procedures for handling large losses of culture on an emergency basis.

Appendix K–III—BL2–LS Level

Appendix K–III–A. Cultures of viable organisms containing recombinant DNA molecules shall be handled in a closed system (e.g., closed vessel used for the propagation and growth of cultures) or other primary containment equipment (e.g., Class III biological safety cabinet containing a centrifuge used to process culture fluids) which is designed to prevent the escape of viable organisms. Volumes less than 10 liters may be handled outside of a closed system or other primary containment equipment provided all physical containment requirements specified in Appendix G–II–B of the Guidelines are met.

Appendix K–III–B. Culture fluids (except as allowed in Appendix K–III–C)

shall not be removed from a closed system or other primary containment equipment unless the viable organisms containing recombinant DNA molecules have been inactivated by a validated inactivation procedure. A validated inactivation procedure is one which has been demonstrated to be effective using the organism that will serve as the host for propagating the recombinant DNA molecules.

Appendix K–III–C. Sample collection from a closed system, the addition of materials to a closed system, and the transfer of cultures fluids from one closed system to another shall be done in a manner which prevents the release of aerosols or contamination of exposed surfaces.

Appendix K–III–D. Exhaust gases removed from a closed system or other primary containment equipment shall be treated by filters which have efficiencies equivalent to HEPA filters or by other equivalent procedures (e.g., incineration) to prevent the release of viable organisms containing recombinant DNA molecules to the environment.

Appendix K–III–E. A closed system or other primary containment equipment that has contained viable organisms containing recombinant DNA molecules shall not be opened for maintenance or other purposes unless it has been sterilized by a validated sterilization procedure. A validated sterilization procedure is one which has been demonstrated to be effective using the organisms that will serve as the host for propagating the recombinant DNA molecules.

Appendix K–III–F. Rotating seals and other mechanical devices directly associated with a closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules shall be designed to prevent leakage or shall be fully enclosed in ventilated housings that are exhausted through filters which have efficiencies equivalent to HEPA filters or through other equivalent treatment devices.

Appendix K–III–G. A closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules and other primary containment equipment used to contain operations involving viable organisms containing recombinant DNA molecules shall include monitoring or sensing devices that monitor the integrity of containment during operations.

Appendix K–III–H. A closed system used for the propagation and growth of viable organisms containing the recombinant DNA molecules shall be tested for integrity of the containment features using the organism that will serve as the host for propagating recombinant DNA molecules. Testing shall be accomplished prior to the introduction of viable organisms containing recombinant DNA molecules and following modification or replacement of essential containment features. Procedures and methods used in the testing shall be appropriate for the equipment design and for recovery and demonstration of the test organism. Records of tests and results shall be maintained on file.

Appendix K–III–I. A closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules shall be permanently identified. This identification shall be used in all records reflecting testing, operation, and maintenance and in all documentation relating to use of this equipment for research or production activities involving viable organisms containing recombinant DNA molecules.

Appendix K–III–J. The universal biohazard sign shall be posted on each closed system and primary containment equipment when used to contain viable organisms containing recombinant DNA molecules.

Appendix K–III–K. Emergency plans required by Section IV–B–3–f shall include methods and procedures for handling large losses of culture on an emergency basis.

Appendix K–IV—BL3–LS Level

Appendix K–IV–A. Cultures of viable organisms containing recombinant DNA molecules shall be handled in a closed system (e.g., closed vessels used for the propagation and growth of cultures) or other primary containment equipment (e.g., Class III biological safety cabinet containing a centrifuge used to process culture fluids) which is designed to prevent the escape of viable organisms. Volumes less than 10 liters may be handled outside of a closed system provided all physical containment requirements specified in Appendix G–II–C of the Guidelines are met.

Appendix K–IV–B. Culture fluids (except as allowed in Appendix K–IV–C) shall not be removed from a closed system or other primary containment equipment unless the viable organisms containing recombinant DNA molecules have been inactivated by a validated inactivation procedure. A validated inactivation procedure is one which has been demonstrated to be effective using the organisms that will serve as the host for propagating the recombinant DNA molecules.

Appendix K–IV–C. Sample collection from a closed system, the addition of materials to a closed system, and the transfer of culture fluids from one closed system to another shall be done in a manner which prevents the release of aerosols or contamination of exposed surfaces.

Appendix K–IV–D. Exhaust gases removed from a closed system or other primary containment equipment shall be treated by filters which have efficiencies equivalent to HEPA filters or by other equivalent procedures (e.g., incineration) to prevent the release of viable organisms containing recombinant DNA molecules to the environment.

Appendix K–IV–E. A closed system or other primary containment equipment that has contained viable organisms containing recombinant DNA molecules shall not be opened for maintenance or other purposes unless it has been sterilized by a validated sterilization procedure. A validated sterilization procedure is one which has been demonstrated to be effective using the organisms that will serve as the host for propagating the recombinant DNA molecules.

Appendix K–IV–F. A closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules shall be operated so that the space above the culture level will be maintained at a pressure as low as possible, consistent with equipment design, in order to maintain the integrity of containment features.

Appendix K–IV–G. Rotating seals and other mechanical devices directly associated with a closed system used to contain viable organisms containing recombinant DNA molecules shall be designed to prevent leakage or shall be fully enclosed in ventilated housings that are exhausted through filters which have efficiencies equivalent to HEPA filters or through other equivalent treatment devices.

Appendix K–IV–H. A closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules and other primary containment equipment used to contain operations involving viable organisms containing recombinant DNA molecules shall include monitoring or sensing devices that monitor the integrity of containment during operations.

Appendix K–IV–I. A closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules shall be tested for integrity of the containment features using the organisms that will serve as the host for propagating the recombinant DNA molecules. Testing shall be accomplished prior to the

introduction of viable organisms containing recombinant DNA molecules and following modification or replacement of essential containment features. Procedures and methods used in the testing shall be appropriate for the equipment design and for recovery and demonstration of the test organism. Records of tests and results shall be maintained on file.

Appendix K–IV–J. A closed system used for the propagation and growth of viable organisms containing recombinant DNA molecules shall be permanently identified. This identification shall be used in all records reflecting testing, operation, and maintenance and in all documentation relating to the use of this equipment for research production activities involving viable organisms containing recombinant DNA molecules.

Appendix K–IV–K. The universal biohazard sign shall be posted on each closed system and primary containment equipment when used to contain viable organisms containing recombinant DNA molecules.

Appendix K–IV–L. Emergency plans required by Section IV–B–3–f shall include methods and procedures for handling large losses of culture on an emergency basis.

Appendix K–IV–M. Closed systems and other primary containment equipment used in handling cultures of viable organisms containing recombinant DNA molecules shall be located within a controlled area which meets the following requirments:

Appendix K–IV–M–1. The controlled area shall have a separate entry area. The entry area shall be a double-doored space such as an air lock, anteroom, or change room that separates the controlled area from the balance of the facility.

Appendix K–IV–M–2. The surfaces of walls, ceilings, and floors in the controlled area shall be such as to permit ready cleaning and decontamination.

Appendix K–IV–M–3. Penetrations into the controlled area shall be sealed to permit liquid or vapor phase space decontamination.

Appendix K–IV–M–4. All utilities and service or process piping and wiring entering the controlled area shall be protected against contamination.

Appendix K–IV–M–5. Hand-washing facilities equipped with foot, elbow, or automatically operated valves shall be located at each major work area and near each primary exit.

Appendix K–IV–M–6. A shower facility shall be provided. This facility shall be located in close proximity to the controlled area.

Appendix K–IV–M–7. The controlled area shall be designed to preclude release of culture fluids outside the controlled area in the event of an accidental spill or release from the closed systems or other primary containment equipment.

Appendix K–IV–M–8. The controlled area shall have a ventilation system that is capable of controlling air movement. The movement of air shall be from areas of lower contamination potential to areas of higher contamination potential. If the ventilation system provides positive pressure supply air, the system shall operate in a manner that prevents the reversal of the direction of air movement or shall be equipped with an alarm that would be actuated in the event that reversal in the direction of air movement were to occur. The exhaust air from the controlled area shall not be recirculated to other areas of the facility. The exhaust air from the controlled area may be discharged to the outdoors without filtration or other means for effectively reducing an accidental aerosol burden provided that it can be dispersed clear or occupied buildings and air intakes.

Appendix K–IV–N. The following personnel and operational practices shall be required:

Appendix K–IV–N–1. Personnel entry into the controlled area shall be through the entry area specifed in Appendix K–IV–M–I.

Appendix K–IV–N–2. Persons entering the controlled area shall exchange or cover their personal clothing with work garments such as jumpsuits, laboratory coats, pants and shirts, head cover, and shoes or shoe covers. On exit from the controlled area the work clothing may be stored in a locker separate from that used for personal clothing or discarded for laundering. Clothing shall be decontaminated before laundering.

Appendix K–IV–N–3. Entry into the controlled area during periods when work is in progress shall be restricted to those persons required to meet program or support needs. Prior to entry all persons shall be informed of the operating practices, emergency procedures, and the nature of the work conducted.

Appendix K–IV–N–4. Persons under 18 years of age shall not be permitted to enter the controlled area.

Appendix K–IV–N–5. The universal biohazard sign shall be posted on entry doors to the controlled area and all internal doors when any work involving the organism is in progress. This includes periods when decontamination procedures are in progress. The sign posted on the entry doors to the controlled area shall include a statement of agents in use and personnel authorized to enter the controlled area.

Appendix K–IV–N–6. The controlled area shall be kept neat and clean.

Appendix K–IV–N–7. Eating, drinking, smoking, and storage of food are prohibited in the controlled area.

Appendix K–IV–N–8. Animals and plants shall be excluded from the controlled area.

Appendix K–IV–N–9. An effective insect and rodent control program shall be maintained.

Appendix K–IV–N–10. Access doors to the controlled area shall be kept closed, except as necessary for access, while work is in progress. Serve doors leading directly outdoors shall be sealed and locked while work is in progress.

Appendix K–IV–N–11. Persons shall wash their hands when leaving the controlled area.

Appendix K–IV–N–12. Persons working in the controlled area shall be trained in emergency procedures.

Appendix K–IV–N–13. Equipment and materials required for the management of accidents involving viable organisms containing recombinant DNA molecules shall be available in the controlled area.

Appendix K–IV–N–14. The controlled area shall be decontaminated in accordance with established procedures following spills or other accidental release of viable organisms containing recombinant DNA molecules.

Appendix L—Release Into the Environment of Certain Plants

Appendix L–I—General Information

Appendix L specifies conditions under which certain plants as specified below, may be approved for release into the environment. Experiments in this category cannot be initiated without submission of relevant information on the proposed experiment to NIH, review by the RAC Plant Working Group, and specific approval by NIH. Such experiments also require the approval of the IBC before initiation. Information on specific experiments which have been approved will be available in ORDA and will be listed in Appendix L–III when the Guidelines are republished.

Experiments which do not meet the specifications of Appendix L–II fall under Section III–A and require RAC review and NIH and IBC approval before initiation.

Appendix L–II—Criteria Allowing Review by the RAC Plant Working Group Without the Requirement for Full RAC Review

Approval may be granted by ORDA in consultation with the Plant Working

Group without the requirement for full RAC review (IBC review is also necessary) for growing plants containing recombinant DNA in the field under the following conditions:

Appendix L–II–A. The plant species is a cultivated crop of a genus that has no species known to be a noxious weed.

Appendix L–II–B. The introduced DNA consists of well-characterized genes containing no sequences harmful to humans, animals, or plants.

Appendix L–II–C. The vector consists of DNA: (i) From exempt host-vector systems (Appendix C); (ii) from plants of the same or closely related species; (iii) from nonpathogenic prokaryotes or nonpathogenic lower eukaryotic plants; (iv) from plant pathogens only if sequences resulting in production of disease symptoms have been deleted; or (v) chimeric vectors constructed from sequences defined in (i) to (iv) above. The DNA may be introduced by any suitable method. If sequences resulting in production of disease symptoms are retained for purposes of introducing the DNA into the plant, greenhouse-grown plants must be shown to be free of such sequences before such plants, derivatives, or seed from them can be used in field tests.

Appendix L–II–D. Plants are grown in controlled access fields under specified conditions appropriate for the plant under study and the geographical location. Such conditions should include provisions for using good cultural and pest control practices, for physical isolation from plants of the same species outside of the experimental plot in accordance with pollination characteristics of the species, and for further preventing plants containing recombinant DNA from becoming established in the environment. Review by the IBC should include an appraisal by scientists knowledgeable of the crop, its production practices, and the local geographical conditions. Procedures for assessing alterations in and the spread of organisms containing recombinant DNA must be developed. The results of the outlined tests must be submitted for review by the IBC. Copies must also be submitted to the Plant Working Group of the RAC.

Appendix L–III—Specific Approvals

As of publication of the revised Guidelines, no specific proposals have been approved. An updated list may be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, Building 31, Room 3B10, Bethesda, Maryland 20892.

(OMB's "Mandatory Information Requirements for Federal Assistance Program Announcements" (45 FR 39592) requires a statement concerning the official government programs contained in the *Catalog of Federal Domestic Assistance.* Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the *Catalog of Federal Domestic Assistance* are affected.)

Dated: April 18, 1986.

Thomas E. Malone,

Acting Director, National Institutes of Health.

[FR Doc. 86–10120 Filed 5–6–86; 8:45 am]

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Federal Register

Wednesday
May 7, 1986

Part IV

Department of Defense
General Services Administration
National Aeronautics and Space Administration

48 CFR Parts 6, 8, 15, 41, and 52
Federal Acquisition Regulation (FAR); Proposed Revision of FAR 8.3, Acquisition of Utility Services

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

48 CFR Parts 6, 8, 15, 41, and 52

Federal Acquisition Regulation (FAR); Proposed Revision of FAR 8.3, Acquisition of Utility Services

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Proposed rule.

SUMMARY: The Civilian Agency Acquisition Council and the Defense Acquisition Regulatory Council have approved a revision to FAR Subpart 8.3, Acquisition of Utility Services, and its redesignation as FAR Part 41, Utility Services.

DATES: Comments should be submitted to the FAR Secretariat at the address shown below on or before July 7, 1986, to be considered in the formulation of a final rule.

ADDRESS: Interested parties should submit written comments to: General Services Administration, FAR Secretariat (VRS), 18th & F Streets NW., Room 4041, Washington, DC 20405.

Please cite FAR Case 85–10 in all correspondence related to this issue.

FOR FURTHER INFORMATION CONTACT: Ms. Margaret A. Willis, FAR Secretariat, Telephone (202) 523–4755.

SUPPLEMENTARY INFORMATION:

A. Background

In response both to requirements of the Competition in Contracting Act of 1984 (CICA) and to changes in the utility service industry, the proposed rule would require a contracting officer to acquire utility services competitively by a contract which includes the applicable clauses prescribed by the FAR and would permit a contracting officer to contract without an imperative to solicit a source solely on the basis of a franchised service territory. In recognition of the special nature of contracting for utility services, the proposed rule would relocate the regulatory coverage to the FAR subchapter which addresses special categories of contracting.

B. Regulatory Flexibility Act

The proposed rule does not exert a significant economic impact on a substantial number of small entities, because the utility service industry consists of large business concerns regulated by Federal, State, or local regulatory bodies.

C. Paperwork Reduction Act

The Paperwork Reduction Act (Pub. L. 96–511) does not apply because this proposed rule does not impose any additional reporting or recordkeeping requirements or collection of information from offerors, contractors, or members of the public which require the approval of OMB under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Parts 6, 8, 15, 41, and 52.

Government procurement.

Dated: May 2, 1986.

Lawrence J. Rizzi,

Director, Office of Federal Acquisition and Regulatory Policy.

Therefore, it is proposed that 48 CFR Parts 6, 8, 15, 41, and 52 be amended as follows:

1. The authority citation for Parts 6, 8, 15, and 52 continues to read as follows:

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

PART 6—COMPETITION REQUIREMENTS

6.302–1 [Amended]

2. Section 6.302–1 is amended by removing in paragraph (b)(3) the reference "(see 8.304–5(d))" and inserting in its place the reference "(see 41.104(b))".

PART 8—REQUIRED SOURCES OF SUPPLIES AND SERVICES

8.002 [Amended]

3. Section 8.002 is amended by removing in paragraph (b) the reference "(see Subpart 8.3)" and inserting in its place the reference "(see Part 41)".

PART 15—CONTRACTING BY NEGOTIATION

15.812–2 [Amended]

4. Section 15.812–2 is amended by removing in the first sentence the reference "Subpart 8.3" and inserting in its place the reference "Part 41".

5. A new Part 41 is added to read as follows:

PART 41—UTILITY SERVICES

41.000 Scope of part.

Subpart 41.1—Acquisition of Utility Services

41.1001 Definitions.
41.102 Applicability.
41.1003 Statutory authority.
41.104 Acquisition policy.
41.1005 Acquiring utility services.
41.105–1 GSA assistance.
41.105–2 GSA areawide contracts.
41.105–3 Separate contracts.
41.10–5–4 Consolidated purchases, joint use, or cross-services.
41.106 Post-contract review.
41.107 Guidelines and data for GSA contract assistance and review.
41.108 Agency implementation.
41.109 Contract clauses.

Authority: 40 U.S.C. 486(c); 10 U.S.C. Chapter 137; and 42 U.S.C. 2453(c).

41.000 Scope of part.

This part prescribes policies and procedures for the economic and efficient acquisition of utility services (excluding telecommunication services).

Subpart 41.1—Acquisition of Utility Services

41.101 Definitions.

"Areawide contract," as used in this subpart, means a basic ordering agreement (see 16.703) entered into between the General Services Administration (GSA), and a utility service supplier to cover the utility service acquisitions by Federal agencies.

"Authorization," as used in this subpart, means the ordering document under an areawide contract issued by an authorized contracting officer for the acquisition of the required utility services (see 16.703(d)).

"Connection charge," as used in this subpart, means a payment to the utility supplier by the Government for the installation of facilities which are required to make connections to the nearest point of supply (see Termination liability).

"Delegated agency," as used in this subpart, means an agency that has received a written delegation of authority from GSA to contract for utility services.

"Separate contract," as used in this subpart, means a utility services contract to cover the acquisition of utility services for a specific delivery point(s).

"Termination liability," as used in this subpart, means a contingent obligation to pay the unamortized costs of connecting facilities, which are installed and owned by the utility supplier. This obligation becomes operative in the

event the Federal Government terminates the contract prior to the time required to satisfy the contingent obligation provisions of the contract (see Connection charge).

"Utility services," as used in this subpart, means the furnishing of services such as electricity, gas, water, sewage, and steam. These services shall include but are not limited to public utility services. The application of utility service contracts to other services may be appropriate when the contract is not subject to the Service Contract Act of 1965 (see 37.107).

41.102 Applicability.

(a) Except as provided in paragraph (b) of this section, this subpart applies to the acquisition of utility services, including connection charges.

(b) This subpart does not apply to—

(1) Utility services produced, distributed, or sold by a Federal agency;

(2) Utility services (other than those required for administrative purposes) obtained by purchase, exchange, or otherwise by a Federal power or water marketing agency incident to that agency's marketing or distribution program; or

(3) Cable television (CATV), nonfossil fuel energy development, telecommunications services, and contracts leading to beneficial construction for the Government.

41.103 Statutory authority.

(a) The Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 481), authorizes the General Services Administration (GSA) to provide Federal agencies with an economic and efficient system for the management and acquisition of utility services. GSA has statutory authority to enter into long-term contracts for utility services for periods not to exceed a term of 10 years (40 U.S.C. 481).

(b) The Department of Defense (DOD) has authority to acquire utility services for military facilities (10 U.S.C. 2304 and 40 U.S.C. 474(3)) and to enter into long-term contracts for energy and fuel for periods of up to 30 years (10 U.S.C. 2394).

(c) The Department of Energy Organization Act (42 U.S.C. 7251) provides for the Department of Energy (DOE) to enter into contracts not to exceed 10 years for the acquisition of gas and electric utility services for Energy Research and Development Administration Programs and the Atomic Energy Act of 1954, as amended (42 U.S.C. 2204), provides for DOE to enter into new contracts or modify existing contracts for electric services for periods not exceeding 25 years for uranium enrichment installations.

41.104 Acquisition policy.

(a) Agencies shall perform acquisition planning in accordance with Part 7 to promote and provide for full and open competition (see Part 6).

(b) The existence of franchised service territories is not a justification for the acquisition of utility services on a "Sole Source" basis (see 6.302–1).

(c) The contracting officer should consider, as part of the market survey, the following sources:

(1) GSA areawide contracts.

(2) Separate contracts.

(3) Consolidated purchases.

(4) Joint use.

(5) Cross-service arrangements.

(d) The contracting officer shall acquire utility services by contract, including the clauses required by 41.109, whether or not rates or conditions of service are fixed or adjusted by a Federal, State, or other regulatory body.

(e) The contracting officer may not use the utility supplier's forms and clauses to avoid the provisions and clauses required by 41.109.

41.105 Acquiring utility services.

This section describes methods by which utility services may be acquired.

41.105–1 GSA assistance.

(a) GSA will, upon request, furnish the services provided for in this subpart to any Federal agency, mixed ownership Government corporation, the District of Columbia, the Senate, the House of Representatives, or the Architect of the Capitol.

(b) Except as otherwise specified, agencies shall submit all information required by GSA under this subpart to the Office of Procurement, Public Buildings Service, General Services Administration, Washington, DC 20405.

(c) The nondelegated agencies shall come to GSA for assistance when—

(1) The annual cost of the service to be acquired is estimated by the using agency, at the time of initiation of the service or annual review, to exceed $150,000 for separate contracts or $250,000 for "Authorizations" under effective areawide contracts; or

(2) A proposed connection charge, termination liability, or other facilities charge to be paid by the agency (whether or not refundable) is estimated to exceed $75,000 for separate contracts or $125,000 for "Authorizations" under effective areawide contracts.

(d) Nondelegated agencies shall forward such requests for review and technical assistance to GSA 120 days prior to the initiation of new services or expiration of any current contract.

41.105–2 GSA areawide contract.

(a) GSA enters into areawide contracts with utility suppliers for use by all Federal agencies in the acquisition of utility services within the supplier's service area. A Federal agency may request GSA to negotiate an areawide contract.

(b) An areawide contract requires the utility services supplier, upon execution of the "Authorization" under the areawide contract, to furnish the needed services without further negotiations at the supplier's current published or unpublished rates.

(c) The areawide contract may not be used to avoid competition (see 16.703).

(d) Following the "market survey," if the contracting officer determines that the utility supplier with an effective areawide contract is a "Sole Source," the agency should acquire utility services under the areawide contract (see 6.302–1(b)(3)). Rates and services of a special nature may be obtained under the areawide contract by executing an expanded "Authorization."

(e) Upon request, GSA will furnish agencies a list of the current areawide contracts showing the kinds of utility services, and the geographical areas served. GSA will also provide a copy of any areawide contract upon request. Each areawide contract includes an "Authorization" form for requesting service, connection, disconnection, or change in service.

(f) When utility services are acquired under an areawide contract, the ordering agency shall use the "Authorization" attached to the appropriate GSA areawide contract in lieu of the Optional Form (OF) 347 for requesting service, connection, disconnection, or change in service. The "Authorization" may be added to, in the form of an addendum, to satisfy the fiscal and administrative requirements of the agency.

(g) The contracting office acquiring utility services under an areawide contract shall perform the annual post contract review of each "Authorization," as required by 41.106.

(h) The contracting office acquiring utility services under an areawide contract shall furnish to GSA at the address shown in 41.105–1(b) a fully executed copy of the "Authorization" requesting service, connection, disconnection, or change in service within 30 days after execution by the utility supplier and the agency.

41.105-3 Separate contracts.

(a) Contracts shall be entered into with the utility supplier to acquire utility services, within the scope of each Federal agency's acquisition authority. GSA has implemented a technical assistance and utility acquisition assistance program on behalf of the nondelegated agencies. A Federal agency may request GSA to negotiate a separate contract on its behalf.

(b) GSA has delegated its long-term authority for utility services contracts up to 10 years to DOD, and partially delegated its long-term authority to DOE and the Veterans Administration. Conditions for acquisition under long-term contracts shall be determined by the specific delegation of authority from GSA to the agency. Nondelegated agencies may request a direct delegation of authority to acquire utility services from GSA at the address shown in 41.105-1(b).

(c) When GSA initiates or is requested to negotiate a separate contract for a nondelegated agency, the requesting agency shall furnish the following information to GSA:

(1) The technical and acquisition data required in 41.107.

(2) Such other technical data as GSA may request to complete the contract.

(d) In determining whether to negotiate a separate contract, consideration should be given to the following:

(1) The utility supplier's rates in light of the magnitude of the services required.

(2) Any unusual characteristics of services required.

(3) Any special equipment or facility requirements.

(4) Any special technical contract terms required by the agency.

(e) A long-term contract may be justified and is usually required by any of the following circumstances:

(1) The Government will obtain lower rates, larger discounts, or more favorable conditions of service.

(2) A proposed connection charge, termination liability, or any other facilities charge to be paid by the Federal Government will be reduced or eliminated.

(3) The utility service supplier refuses to render the desired service except under a long-term contract.

41.105-4 Consolidated purchase, joint use, or cross-service.

Agencies shall use consolidated purchase, joint use, or cross-service to acquire utility services or facilities in accordance with the policies and procedures at Subpart 17.5, Interagency Acquisitions Under the Economy Act. Use of an interagency agreement to acquire utility services requires a Memorandum of Understanding or other appropriate document to specify the services or facilities to be supplied, the estimated costs, and other conditions under which they will be acquired.

41.106 Post-contract review.

Agencies are responsible to review bills for utility services on a monthly basis and each contract or "Authorization" on an annual basis to ensure that the utility supplier is providing services and is billing each facility for the services furnished under the utility's most economical and applicable rate. The review should be based upon the facility's usage, conditions, and characteristics of service, at each individual delivery point, for the most recent 12 months. If a change in rate is appropriate, the Federal agencies will request the supplier to make such rate change immediately.

41.107 Guidelines and data for GSA contract assistance and review.

(a) All contracting offices requiring GSA assistance in acquiring utility services shall assemble and furnish complete information relating to each proposed acquisition sufficiently in advance (see 41.105-1(d)) to permit a complete review by GSA.

(b) The information for review shall include—

(1) A technical description or specifications of the type, quantity, and quality of service required; and

(2) A copy of any service proposal or proposed contract.

(c) If not included in the foregoing, a copy of the following additional documents and data shall be furnished, if applicable:

(1) A complete copy or copies of the current published or unpublished rates of the utility supplier.

(2) The following data concerning quantity, quality, and delivery schedule of required services when new or initial services are to commence:

(i) The date initial service is required.

(ii) Data, for the first calendar year of full service, on estimated maximum demand, monthly consumption, and estimated annual cost of service and connection charges to be paid by the agency.

(iii) Known or estimated time schedule for growth to ultimate requirements.

(iv) Estimated ultimate maximum demand and ultimate monthly consumption.

(v) A simple schematic diagram or line drawing showing the meter locations and the location of the new utility facilities to be constructed by the Federal agency and the new connecting facilities to be constructed by the utility supplier to provide the new services.

(vi) Accounting and appropriation data to cover the required utility services and any connection charges required to be paid by the agency to receive such utility services.

(3) Identification of all available sources or methods of supply, the cost effectiveness of each, and a statement of the ability of each source to provide the required services, including the location and a description of each available supplier's facilities at the nearest point of service.

(4) Identification of any unusual factors affecting the acquisition.

(5) The following data concerning proposed facilities and related connection charges or costs:

(i) Proposed refundable or nonrefundable connection charge, termination liability, or other facilities charge to be paid by the Federal agency, together with a description of the supplier's proposed facilities and estimated construction costs entering into the determination of the proposed connection charge, termination liability, or facilities charge.

(ii) The basis for the connection charge by the utility supplier.

(iii) A statement by the supplier that any proposed connection charge is not in excess of the charge that other customers would be required to pay for like facilities under similar class and condition of service.

(iv) A copy of the acquiring agency's estimate to make its own connection to the supplier's facilities, in lieu of paying the connection charge proposed by the utility supplier. In the case of proposed water and sewage contracts, the acquiring agency shall provide its estimates to construct and operate its own utility facilities in lieu of participating in a cost-sharing construction program with the proposed utility supplier.

(d) For existing utility services, the agency shall furnish the data required above under 41.107(a), (b), (c)(1), and the following additional information:

(1) A copy of the monthly bills covering the most recent 12 months.

(2) A tabulation, by months, for the most recent 12 months, showing the utility demands, consumption and charges, fuel adjustment charges, and the average monthly cost per unit of consumption.

(3) A tabulation by months, for the next 12 months showing the same data as requested in (2) above.

(4) Accounting and appropriation data to cover the costs for the continuation of utility services.

(5) A simple schematic diagram or line drawing suitable to be included in the utility services contract showing the meter locations.

(6) For electric service contracts, state if the transformer(s) at the point of delivery is owned by the Federal agency or the utility supplier and if the metering is made on the primary or secondary side of such transformer(s).

41.108 Agency implementation.

Specific operating and management details such as procedures for contract assistance and review, contract format, delegations of authority, and approval thresholds are left to individual agency implementation pursuant to all appropriate statutes and regulations.

41.109 Contract clauses.

(a) The contracting officer shall insert the clause at 52.208–3, Conflicts, in solicitations and contracts for utility services.

(b) The contracting officer shall also insert in solicitations and contracts for utility services the provisions and clauses prescribed elsewhere in the FAR, as appropriate for each acquisition, depending on the conditions that are applicable.

PART 52—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

52.208–3 [Amended]

6. Section 52.208–3 is amended by removing in the introductory text the reference "8.309(a)" and inserting in its place the reference "41.109(a)", and by inserting a colon following the word "clause" and removing the remainder of the sentence.

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S. 1684/Pub. L. 99-283

To declare that the United States holds certain Chilocco Indian School lands in trust for the Kaw, Otoe-Missouria, Pawnee, Ponca, and Tonkawa Indian Tribes of Oklahoma. (May 1, 1986; 100 Stat. 404; 2 pages) Price: $1.00

S. 2319/Pub. L. 99-284

To provide for the continuation of the Martin Luther King, Jr. Federal Holiday Commission until 1989, and for other purposes. (May 1, 1986; 100 Stat. 406; 1 page) Price: $1.00

S.J. Res. 214/Pub. L. 99-285

Providing for reappointment of Carlisle H. Hummelsine as a citizen regent of the Board of Regents of the Smithsonian Institution. (May 1, 1986; 100 Stat. 407; 1 page) Price: $1.00

S.J. Res. 215/Pub. L. 99-286

Providing for reappointment of William G. Bowen as a citizen regent of the Board of Regents of the Smithsonian Institution. (May 1, 1986; 100 Stat. 408; 1 page) Price: $1.00

S.J. Res. 275/Pub. L. 99-287

Designating May 11 through May 17, 1986, as "Jewish Heritage Week." (May 1, 1986; 100 Stat. 409; 1 page) Price: $1.00

S.J. Res. 296/Pub. L. 99-288

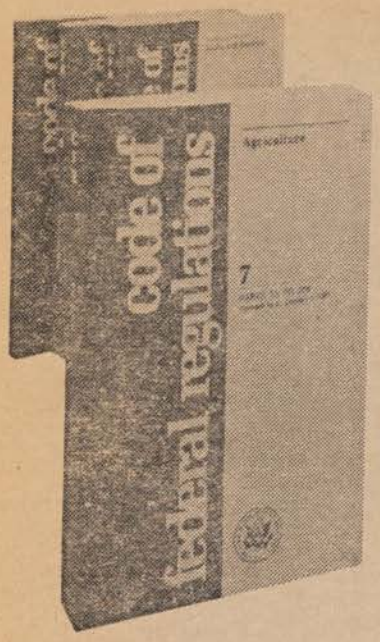
To designate October 16, 1986, as "World Food Day." (May 1, 1986; 100 Stat. 410; 2 pages) Price: $1.00

H.R. 4602/Pub. L. 99-289

To authorize the Federal Housing Administration and the Government National Mortgage Association to enter into additional commitments to insure loans and guarantee mortgage-backed securities during fiscal year 1986, and for other purposes. (May 2, 1986; 100 Stat. 412; 1 page) Price: $1.00

H.J. Res. 220/Pub. L. 99-290

To reaffirm Congress' recognition of the vital role played by members of the National Guard and Reserve in the national defense, and for other purposes. (May 2, 1986; 100 Stat. 413; 2 pages) Price: $1.00



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